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SECTION 2. FINDINGS AND PURPOSE

section contains the findings and purpose for titles I and II.

SECTION 3. DEFINITIONS

section contains the definitions for titles I and II, including finitions of "domestic uranium", "Equivalent Foreign Urani- "Equivalent Uranium", "foreign uranium" and "overfeed-

TITLE I—URANIUM REVITALIZATION

SECTION 110. DELETION OF SECTION 161V.

section deletes subsection 161v. of the Atomic Energy Act of

SECTION 111. AMENDMENT A SECTION 170B

section amends section 170B of the Atomic Energy Act of o provide for an annual report by the Secretary of Energy on ability of the domestic uranium mining industry between the 2000 and 2011 and to require the Secretary to request an in- ation under section 232 of the Trade Expansion Act of 1962 if im imports exceed 37.5 percent of domestic requirements for year period or if the level of uranium imports threatens to the national security.

SECTION 112. IN GENERAL

section requires any licensee who operates a civilian nuclear reactor with fuel assemblies that include foreign uranium after December 31, 1987, and prior to January 1, 2001, to arges, as provided in section 113, to the Secretary of Energy.

SECTION 113. CALCULATION OF CHARGES

section (a) describes a sliding scale of changes to be imposed Secretary of Energy between December 31, 1987, and Janu- 2001 and to be calculated upon the percentage of foreign ura- included in the aggregate of new fuel assemblies loaded into ilian nuclear power reactors during any calendar year. Until charges are assessed when the percentage of foreign uranium fuel assemblies exceeds 37.5 percent.

section (b) provides that after December 31, 1994, no charges sessed on the first 50 percent of the total weight of uranium fuel assemblies loaded in that year.

ON 114. CORPORATIONS OWNING MORE THAN ONE LICENSEE AND REACTORS WITH MULTIPLE OWNERS

section describes special rules that apply when a corpora- wns more than one license, or when a reactor has more than vner.

SECTION 117. FLAG SWAPPING

section describes the terms and conditions under whi
lity of uranium involved in the commercial practice o
ng" shall be determined.

SECTION 118. DISPOSITION OF CHARGES

section provides that charges imposed by this title a
by the Secretary shall be deposited in the general f
asury within 60 days after the certification required
).

SECTION 119. CERTIFICATION

section requires the owner or operator of a civilian n
reactor to certify certain information including the or
n loaded in new fuel assemblies by March 1 of each ye
vious calendar year.

SECTION 120. GOVERNMENT URANIUM PURCHASES

ection (a)(1) directs the United States to purchase do
m exclusively, but exempts from this section uraniu
under contracts entered into before the date of enactm
t.

ection (a)(2) restricts the use and reduction of the amo
and enriched uranium contained in U.S. Gover
les or inventories.

ection (b) states that subsection (a) does not apply
see Valley Authority (TVA).

TITLE II—TAILINGS RECLAMATION

TION 210. REMEDIAL ACTION PERFORMED BY THE OWNER LICENSEE OF ACTIVE SITES

ections (a), (b), and (c) direct the licensee of an active
thorium processing site to select and perform reclam
nissioning, and other remedial action, at active sites
ce with applicable standards, and establish that the c
ation, decommissioning and remedial action be paid
anium Mill Tailings Fund established in section 211.

ection (d) lists the active sites which qualify for reim
rom the Uranium Mill Tailings Fund, directs the Sec
rmine the actual amount of tailings at each of the site

d") as a separate fund in the Treasury of the United State s its use for the purposes of this title only, and provide lines for the administration of the Fund.

SECTION 212. CONTRIBUTIONS TO THE FUND

s section describes the contributions to be made to the Fun e States, owners or licensees of active sites, owners or licens f civilian nuclear power reactors, and the Federal Gover This section also prescribes the timing and amount of suc ibutions.

SECTION 213. ELECTION TO PARTICIPATE

s section allows the owner or licensee of an active site liste ction 210 to elect to perform reclamation, decommissionin other remedial action and to receive reimbursement from th .

ON 214. REIMBURSEMENT OF COSTS INCURRED FOR RECLAMATION ECOMMISSIONING AND OTHER REMEDIAL ACTION FROM FUND

s section describes the methodology for reimbursing an owne ensee of an active site for costs incurred for reclamation, de issioning and other remedial action under the title.

SECTION 215. LIMITATION ON REIMBURSEMENT

s section limits reimbursement from the Fund to $4.50 pe f tailings. Costs in excess of this limit are to be borne by th r or licensee of the active site.

SECTION 216. TAILINGS GENERATED AFTER THE DATE OF THE ENACTMENT OF THE TITLE

s section ensures that the costs of reclamation, decommissio nd other remedial action concerning tailings generated afte ate of enactment of this act are borne by the owner or licens the active site.

SECTION 217. THORIUM SITES

s section sets out responsibility for remedial action at activ um sites and provides for payment of costs by the Federa rnment in certain instances.

SECTION 218. MAINTENANCE OF FUND BALANCE

is section directs the Secretary to manage the Fund so that ver in a deficit on a cash basis.

SECTION 219. INTEREST ON COSTS INCURRED

is section specifies that interest is earner on costs incurred b articipating owner or licensee from the date a statement fo

his section limits the financial obligations of the owners or
ees of active sites and of licensees of civilian nuclear power
rs in connection with reclamation, decommissioning and oth
edial action at active uranium and thorium sites, but does n
lve the owners or licensees of active sites from obligations i
d by the Uranium Mill Tailings Radiation Control Act of 19
regulations issued thereunder.

SECTION 221. RECLAMATION ALREADY UNDERTAKEN

his section allows the Secretary to provide reimbursement
amation work done prior to the date of enactment of this A

CTION 222. SECRETARY'S AUTHORITY TO MAKE REGULATIONS AND REIMBURSEMENTS

his section authorizes the Secretary to make regulations and
ursements as appropriate to accomplish the purposes of t
.

TION 223. STANDARDS AND INSTRUCTIONS FOR BONDING, SURETY, HER FINANCIAL ARRANGEMENTS, INCLUDING PERFORMANCE BON

his section amends subsection 161x. of the Atomic Energy A
equire surety bonds only for the share of costs for which a
see is responsible.

TLE III—UNITED STATES ENRICHMENT CORPORATION

TION 310. REDIRECTION OF THE URANIUM ENRICHMENT ENTERPR OF THE UNITED STATES

his section amends the Atomic Energy Act by designating t
ting law as "Title I—Atomic Energy" and creating a new "Ti
United States Enrichment Corporation."

CHAPTER 21. FINDINGS

ection 1101 of this chapter makes findings concerning the be
of a strong U.S. enrichment enterprise, and the need for ad
al flexibility to change the uranium enrichment enterprise
its business operations are appropriate to a competitive m
lace.

HAPTER 22. DEFINITIONS, ESTABLISHMENT OF CORPORATION, AND PURPOSES

ection 1201 of this chapter defines terms used in this title.

ection 1202 of this chapter establishes the "United States
ment Corporation" to be a wholly-owned Government corpo
subject to the Government Corporation Control Act, except
ed. The Corporation is an agency and instrumentality of
ted States.

tion 1301 of this chapter directs the Corporation to establish fice in the District of Columbia and be a resident thereof, but s the Corporation to establish additional offices as appropri-

CHAPTER 24. POWERS AND DUTIES OF THE CORPORATION

tion 1401 of this chapter establishes the specific corporate rs and duties of the United States Enrichment Corporation. include: providing uranium enrichment and related services ommercial customers; conducting research and development; providing uranium and uranium enrichment and related serv- the Department of Energy as required.

tion 1402 of this chapter provides general powers of the Cor- ion that give it appropriate legal standing and guidelines nec- to conduct business. These include allowing the corporation end revenues without further appropriations or fiscal year ations.

tion 1403 of this chapter directs that all contracts between the and uranium enrichment customers, and all power purchase acts, shall remain in effect as if the Corporation had executed

tion 1404 of this chapter settles the dispute between Tennes- alley Authority and DOE regarding capacity charges due present power contracts, and validates the enrichment enter- s existing utility services contract.

tion 1405 of this chapter specifies that, to the extent not ad- ed elsewhere, all liabilities of the enrichment enterprise prior date of enactment of this title shall remain liabilities of the Government.

CHAPTER 25. ORGANIZATION, FINANCE AND MANAGEMENT

tion 1501 of this chapter authorizes the appointment, by the dent with the advice and consent of the Senate, of an Admin- or for a 6-year term. The Administrator is the chief executive r of the Corporation. Although the Corporation is part of the rtment of Energy, the Secretary shall exercise general super- of the Administrator only with respect to activities involv-

1) the common defense and the national security;
2) health, safety and the environment; and
3) the need for indemnification with respect to hazardous nu- activities.

tion 1503 of this chapter establishes a five-member Advisory appointed by the Secretary. The Advisory Board is directed view Corporation policy and performance and advise both the tary and the Administrator on these matters.

ormance of the functions of the Corporation, including p facilities and stocks of feed material and enriched uraniu Corporation. However, the Oak Ridge, Tennessee, gaseous plant and the Gas Centrifuge Enrichment Plant in F ıth, Ohio, shall remain with the Department of Energy. ion also allows for access by the Corporation to the A nology, but does not transfer title of facilities used in A arch to the Corporation.

ection 1506 of this chapter establishes the capital structu Corporation. Among other things, this chapter establishe ial debt of the Corporation at $364 million, and authorize poration to pay dividends on earnings to the U.S. Trea n such earnings are not otherwise needed in the furtheran poration functions.

ection 1507 of this chapter authorizes the Corporation to bo billion in private markets by issuing revenue bonds, w ll not be obligations of the United States. The Corporati hibited from borrowing from the Federal Financing Bank.

ection 1508 of this chapter directs the Corporation to pri vices competitively within certain guidelines. Prices may b hout regard to provisions of the Administrative Procedure amended.

ection 1509 of this chapter provides for audits of the Cor by a certified public accounting firm according to comme porate accounting standards. The General Accounting Off ected to review these audits.

ection 1510 of this chapter directs the Corporation to prepa ual report.

ection 1511 of this chapter sets out provisions to restricted

ection 1512 of this chapter establishes patent policy for the ation.

HAPTER 26. LICENSING, TAXATION AND MISCELLANEOUS PROVIS

ection 1601 continues current law with respect to the lice existing facilities of the Corporation using gaseous diffusion ogy. Current law exempts these facilities from licensing b clear Regulatory Commission. The Corporation would be su the regulatory jurisdiction of the Commission and the D nt of Transportation with respect to the packaging and tation of nuclear material.

ection 1602 of this chapter provides for exemption from Fe ome taxes and authorizes payments in lieu of taxes to local governments.

ection 1605 of this chapter directs the Corporation to act nner consistent with the policies expressed in the antitrust

This section requires the Secretary of Energy to indemnify ctors of the Corporation under the Price-Anderson Act.

SECTION 312. MISCELLANEOUS PROVISIONS

This section makes miscellaneous changes to the Atomic En t. It also changes the licensing requirements applicable to richment facilities and exempts the Corporation from seques n under the Gramm-Rudman-Hollings law.

SECTION 313. AUTHORIZATION OF APPROPRIATIONS

This section authorizes additional appropriations to the Corp n as necessary.

SECTION 315. EFFECTIVE DATE

This section sets the effective date of this title as the day fol the end of the first full fiscal year quarter after enactmen s title.

BACKGROUND AND NEED

I. URANIUM INDUSTRY

Prior to 1964, the private ownership of enriched uranium ohibited by the Atomic Energy Act, and the domestic uran ning and milling industry was primarily dependent upon ases by the Federal Government for military purposes. Howe the mid-1960's, military requirements for uranium declined demand for uranium was driven by the emerging nuc wer industry.

In 1964, Congress passed the Private Ownership of Special Nu Materials Act. The two principal purposes of this Act were nation of mandatory Government ownership of special nuc aterials and authorization for the Atomic Energy Commis EC), predecessor of the Department of Energy (DOE), to pro anium enrichment services to utility customers. This act fur couraged the commercial use of uranium and marked the be ng of the commercial uranium mining and milling market.

To promote this fledgling industry, with its important nati curity interests, the 1964 Private Ownership Act provided for otection of the domestic uranium industry from foreign com n. The Atomic Energy Act of 1954 was amended by adding n 161v. to give AEC the responsibility for "maintaining a vi mestic industry". That section provides that to the extent ne ry to assure the maintenance of a viable domestic uranium stry, the Government is prohibited from enriching foreign u for domestic use. The purpose of this provision was to ai

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Government corporation to
ent enterprise, operating a
on a profitable and efficie
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MINORITY VIEWS

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atural Resources, having consid- n original bill, to provide for a to establish a program to fund ctions with respect to mill tail- um sites, to establish a wholly- manage the Nation's uranium as a continuing, commercial en- nt basis, and for other purposes, ss.

E MEASURE

evitalization, Tailings Reclama- s reported by the Committee on to ensure an adequate long-term enrichment capacity for the Na- e bill contains measures to re- n industry, provides a system for remedial action at active urani-t of the reclamation costs.

here are still uncertainties today regarding the risks of urani- mill tailings, the appropriate level of Federal regulation and in- vement necessary for remedial action and reclamation, and the ociated costs.

n 1986, the National Academy of Sciences (NAS) released a ort, *Scientific Basis for Risk Assessment and Management of nium Mill Tailings,* which concluded that a low level of institu- nal oversight will be needed to ensure long-term control of tail- s, that risk management strategies must be site specific, and t health risks to individuals from radon from tailings piles ld be significant for those who live nearby (less than 1 kilome-), but are trivial for the average U.S. citizen.

he EPA, in a March 2, 1987, letter to Senator John B. Breaux l Senator Alan K. Simpson, agreed with the three basic themes he NAS report, as well as many of the other recommendations tained throughout the report. Further, EPA believes that the ulatory system established under UMTRCA meshes well with ny of the NAS recommendations. However, the EPA does "not ieve this report provides a basis for reconsidering our standards uranium mill tailings nor the Federal implementation scheme." e EPA letter is included in Appendix IV of this report.

lowever, EPA regulations have affected the adequacy of NRC ety requirements. Current licensees are licensed and regulated the NRC or States, and are liable for reclaiming mill tailings es in compliance with EPA environmental standards and with C and State regulations. Financial surety arrangements for ura- m mills are required by the States or the NRC to ensure ade- ate funds for reclamation if the licensee defaults on its commit- nt to perform tailings reclamation. The surety arrangements erally involve a combination of legal commitments or financial truments.

he NRC estimated the cleanup costs for these active sites in er to establish these surety arrangements. Once the EPA regu- ions were promulgated in 1983, however, the original NRC cost imates proved much too low. Current surety amounts, as of rch 1987, are estimated by the NRC to be approximately $169 lion. By comparison, on March 9, 1987, DOE testified before the ocommittee on Energy Research and Development that estimat- reclamation costs for active sites are estimated to be between $1 l $2 billion. One possible explanation of the low NRC reclama- n estimates is that tailings were not considered to pose a health zard at the time the estimate was made, and thus, the associated ostantive reclamation costs were not reflected in the NRC esti- te, but are reflected in DOE's cost estimate.

n light of this history, vesting responsibility for remedial action h the site owners and establishing a joint funding system is a r and equitable approach to the essential task of mill tailings lamation. Such a system recognizes that new reclamation re- irements have been imposed long after the uranium was pro-s (SWU)—the measure of enrichment services—at prices that 30 to 40 percent above the market. This poor price competitive- on DOE's part is ironic in that the "factory costs" of enrich- t services from DOE's gaseous diffusion plants at Portsmouth, and Paducah, Kentucky (and at the moth-balled Oak Ridge, nessee plant) are well below competitors' costs. DOE's factory of providing enrichment service is approximately $65 per J, while the competitors' costs are estimated to be in the $80 to per SWU range.

owever, DOE is forced to price its enrichment services at about per SWU because of several artificially-inflated costs that been imposed on the program over the years. For example, in l year 1988 DOE will pay the Tennessee Valley Authority $549 on under "take-or-pay" contracts for electric power not taken. represents more than half the amount budgeted for the ex- es of the program. DOE and TVA have engaged in a lengthy ute over the demand-charge rates under these contracts with- successful resolution. In June 1987, DOE began withholding nent of a portion of the amount owed to TVA in an attempt to a renegotiation of the contract. TVA responded to the with- ing of payment by taking DOE to court. The suit now rests in J.S. Court of Claims.

nother artificial cost imposed on the program is the "unrecov- cost" supposedly owed the Treasury. The President's fiscal 1988 budget assumes DOE will return $231 million of its esti- ed $1.3 billion in revenues to the Treasury as a contribution to it reduction and in partial repayment of the program's "unre- red costs." The notion of unrecovered costs is derived from the ng standard of section 161v. of the Atomic Energy Act.

ction 161v. requires that prices established under that subsec- "shall be on a basis of recovery of the Government's costs over asonable period of time." As interpreted by DOE, enrichment es must recover operating and capital expenditures plus imput- nterest. Congress' intent in enacting section 161v. was to pre- the Government from overcharging utilities for enrichment ices by exercising the monopoly power it then held in the en- ment market. Thus, this section is solely a pricing standard.

evertheless, the General Accounting Office (GAO) has suggest- hat these unrecovered costs be equated to Treasury borrowing.) computes the Government cost by taking the sum of the e assigned by the Government in 1969 to the gaseous diffusion ts, appropriations and imputed interest on capital investment, subtracting revenues received by the program. Using this nodology, GAO estimates of the unrecovered costs are as high 3.8 billion.

y comparison, DOE, for pricing purposes, assigns to commercial omers $1.5 billion in costs incurred by the Government for tary purposes prior to the establishment of the commercial en-

ne gaseous diffusion plants (including the Oak Ridge plant, cur-
tly in standby mode). DOE estimates there have been "unrecov-
d costs" of approximately $3.5 billion incurred in meeting en-
nment needs over the last 18 years.

he position of GAO on unrecovered costs has evolved over time.
O originally chided DOE for its writeoff, but in an October 1987
ort, "Uranium Enrichment: Congressional Action Needed To
italize the Program," GAO has recognized that "Since the exist-
program cannot expect to generate revenues sufficient to recov-
all costs, GAO believes that a practical approach would be to
w DOE to write off unproductive assets." GAO goes on to state
t "Under current conditions, if DOE attempted to raise its
es to fully recover all past costs the enterprise would lose even
e customers."

should be recognized that much of GAO's and DOE's calcula-
of unrecovered costs is subject to legitimate dispute. For exam-
it can be argued that the initial $1.5 billion was expended for
itary purposes and not for the commercial program and thus
uld not be recovered from commercial enrichment customers.
se have always been sunk costs to the program. In addition, the
ts still belong to the Government.

alculation of the unrecovered program costs should be based on
net cash obtained from the Treasury by the program since the
inning of commercial operation in 1969. In this view, net cash
from the Treasury has occurred when expenditures by the pro-
m for commercial purposes exceed the revenues. Excess expend-
es and the interest thereon represent the costs that are still to
recovered from the enrichment program. These "unrecovered
s" are estimated at $364 million at the end of fiscal year 1986.
Appendix I for an explanation of the calculation of this
re.)

its present state, the program would have difficulty repaying
significant amount to the Treasury. DOE has only been able to
in customers in its present environment because of the exist-
e of long-term contracts and because of a willingness of some
tomers to remain with DOE for reliability of supply and out of a
se of national loyalty. Customers must decide in early spring
ether or not to extend their current contracts beyond 1995. On
rch 13, 1987, William Lee, Chairman and Chief Executive Offi-
of Duke Power Company testified before the Committee that
is possible to buy enrichment services either overseas or from
ential new plants in the United States at well below $100 per
U. . . . On behalf of our consumers, we utilities must consider
lower price that we can now find in the marketplace." In addi-
, in September 1987 Duke Power asked DOE, per the terms of
ir contract, to determine the termination charges that Duke
uld have to pay if Duke was to terminate their contract next

m. DOE is expecting to generate $1.3 billion in revenues in al year 1988, of which 85 percent is to be generated from sales commercial customers. This level of revenue will require DOE to about 12.5 million SWU, but due to budget constraints on the ount of power that can be purchased. DOE will be able to duce only 4.2 million SWU. The remainder of the supply must ne from the DOE SMU inventory. (The DOE inventory was built as DOE preproduced SWU for projected defense needs that er materialized.)

he current price for the SWU sales is arrived at by averaging higher cost of new SWU actually produced in a given year, h the lower cost of SWU's produced in earlier years but re- ned in inventory. As SWU inventories decline, the feasibility of h average pricing is diminished. It is anticipated that at the end fiscal year 1988, SWU inventory will decline to the minimum rking level, and this averaging of price will no longer be possi-

n addition, the uranium procedures law suit regarding the via- ty of the domestic uranium industry is pending before the Su- me Court. In the district court and the Tenth Circuit Court of peals decisions (*Western Nuclear* v. *F. Clark Huffman,* Docket s. 85-2483 & 86-1942), DOE was directed, under section 161v. of Atomic Energy Act of 1954, to cease enriching uranium of for- n origin for domestic use in order to assure the viability of the nestic uranium mining industry. This case presents some uncer- nty regarding the future of DOE's enrichment business because he lower court decisions are upheld, or the Supreme Court re- es to hear the case, DOE customers are faced with two options. ey can either stop using any foreign origin uranium or choose to oke the "Force majeure" clause in their contracts with DOE l go overseas for their enrichment services and possibly for their nium ore. DOE estimates the potential loss of business to be r half a billion dollars in 1988.

tructuring of the Enterprise

n January 1984, in an attempt to operate on a more business- e basis, the Department of Energy embarked on a new strategy the uranium enrichment enterprise. This three-pronged ap- ach included:

Stabilization of the marketplace through the issuance of new, more flexible contracts;

Development of an R&D program, culminating in the decision to pursue only the Atomic Vapor Laser Isotope Separation technology; and

Establishment of an improved institutional framework for managing the program.

)n March 13, 1987, DOE testified that it had been successful in lieving its first two objectives, and that it is currently focusing tive, and profitable manner the commercial uranium enrichment activities now conducted by the Department.

'he March letter rejects the status quo because "this will likely d to further deterioration of the enterprise, thus jeopardizing domestic supply of enrichment services and the reliability of U.S. in the eyes of foreign customers." The DOE letters recog- ed the benefits from privatization, but rejected the sale or lease he facilities due to the lack of private sector interest.

Also, on March 13, 1987, Assistant Secretary for Nuclear Energy vid Rossin testified before the Committee that customer termi- ions are imminent, inventories are being liquidated and will be the minimum working level by the end of fiscal year 1988, the d in advanced technology currently held by the United States is indling and may disappear, and competition from foreign rces of enrichment is increasing. Further, he stated that "In ler to achieve its objectives, restructuring the enterprise would ve to deal with pricing flexibility, the unrecovered Government estment, expenditures to achieve operating efficiencies without nual authorizations, and investment in long-term research and velopment."

A Government corporation would achieve the flexibility neces- y for the health of this enterprise. GAO, in its October 1987 ort, describes the conditions where a new Government is justi- d:

> (1) performance of a business function requiring many transactions with the private sector,
>
> (2) the potential ability to be self-sustaining, and
>
> (3) the need for greater financial flexibility than the appropriations process permits.

According to the report, GAO supports a Government corpora- n for the enrichment program because such a corporation would et the criteria listed above and because many of the legislative dgetary, and financial policies imposed on the enrichment pro- am management are inconsistent with modern business prac- es.

Nuclear energy currently provides 16 percent of the Nation's ergy needs; therefore, a healthy and strong nuclear enrichment ogram is of vital national interest. The enrichment program ist be able to respond to free market forces, which determine the e of the U.S. enrichment program in the world market. Current it is difficult for the DOE program to act like a business and spond to market forces because its planning is controlled by the nual budget and appropriations process. In addition, DOE is rced to contend with a variety of administrative requirements in oly, but is not appropriate for a commercial entity facing com tive pressures. Prices must go down in order for DOE to retai most valuable asset—its customers. The DOE program must b ructured to provide the maximum degree of flexibility in oper ns, and due to national security and non-proliferation concerns maintain accountability to the Government.

ome have suggested the establishment of a revolving fund fo talization of the enrichment enterprise. Although such a re ing fund would create a financial scheme that is more stabl n the current program, such a fund would not provide eithe appropriate structure for the enterprise or a clear statement o bjectives.

Government corporation, with a clearly-defined mission to op e as a continuing, commercial enterprise on a profitable and e ent basis, will provide the enrichment program with the bus s-like structure and flexibility that is crucial to the survival o program. In addition, any legislation for revitalizing the enrich nt enterprise should also address other issues which are ad sely affecting the program, such as the TWA demand charges amount of unrecovered costs owed to the Treasury, and the rol he enrichment program in maintaining the viability of the do tic uranium mining industry.

ongress has consistently recognized energy security and nation security as strong motivation for maintaining an efficien ble, competitive uranium enrichment capability in the Unite tes. Domestic employment and energy security are bolstered b ecure, reliable, and economical supply of enriched uranium. For commercial sales aid in the Nation's balance-of-trade pay nts and contribute to the Nation's nuclear nonproliferation e s through DOE's involvement in the nuclear fuel cycle. Finally ortant national security objectives are supported by the avai ity of a safe, dependable supply of highly enriched uranium a sonable costs for U.S. defense programs. Significant issues cur tly face the uranium enrichment enterprise and threaten it g-term competitiveness.

LEGISLATIVE HISTORY

n the 99th Congress, the Committee reported S. 1004 (Senat ort 99–464), a bill that addresses the uranium mining, reclama and enrichment issues considered in the legislation describe ein.

uring the first session of the 100th Congress, the Subcommitte Energy Research and Development devoted 4 days to hearing uranium mining, mill tailings reclamation, and enrichment.

he Subcommittee held oversight hearings on March 9, 1987, o uranium mining industry and, on March 13, 1987, on the statu

S. 1084. April 28, 1987, Senators Domenici, Simpson, Bingaman an Wallop introduced S. 1100 amendment No. 177 to S. 1100. Thes bills and amendments were referred to the Committee on Energ and Natural Resources.

The Subcommittee held hearings on these bills and amendment on May 4 and May 8, 1987.

A comprehensive uranium bill was prepared at the request of th Chairman as a substitute for S. 1084, and S. 1100 and amendment 176 and 177. The substitute was circulated to Members of the Committee on August 6, 1987.

The Committee met in open business session to consider propose uranium legislation on September 30 and October 1, 1987.

COMMITTEE RECOMMENDATION AND TABULATION OF VOTES

The Committee on Energy and Natural Resources, in open business session on October 1, 1987, by majority vote of a quorun present, recommended that the Senate pass the bill.

The rollcall vote on reporting the measure was 13 yeas and 2 nays as follows:

YEAS	NAYS
Mr. Johnston	Mr. Bradley
Mr. Ford	Mr. Evans
Mr. Bingaman	
Mr. Wirth	
Mr. Fowler	
Mr. Conrad	
Mr. McClure	
Mr. Hatfield*	
Mr. Domenici	
Mr. Wallop*	
Mr. Murkowski	
Mr. Nickles*	
Mr. Hecht	

*Indicates voted by proxy.

SECTION-BY-SECTION ANALYSIS

SECTION 1. SHORT TITLE

This Act may be cited as the "Uranium Revitalization, Tailing Reclamation and Enrichment Act of 1987".

SECTION 2. FINDINGS AND PURPOSE

The findings for titles I and II are set forth in this section. Thes findings are generally self-explanatory.

One purpose of these titles is the re-establishment of a viable domestic uranium industry that will ensure an adequate long-tern supply of domestic uranium for the Nation's common defense an security and for the Nation's nuclear power program. In the judgment of the Committee this objective is met by the bill in a manne that reflects national security needs as well as the needs of the do

This section sets forth the definitions for titles I and II. These finitions are self-explanatory.

TITLE I—URANIUM REVITALIZATION

SECTION 110. DELETION OF SECTION 161V

This section deletes subsection 161v. of the Atomic Energy Act o 54, as amended.

SECTION 111. AMENDMENT TO SECTION 170B

This section extends existing provisions of the Atomic Energy t to require monitoring and annual reports between the years 00 and 2011 on domestic uranium mining industry viability.

SECTION 112. IN GENERAL

Licensees of civilian nuclear power reactors having fuel assem es that are loaded after December 31, 1987, and prior to January 2001, and that include foreign uranium are required to pay th arges imposed by section 113.

SECTION 113. CALCULATION OF CHARGES

Except for the exclusions identified in section 115, charges ar posed on foreign uranium included in the aggregate of new fue semblies loaded in any civilian nuclear power reactor after De mber 31, 1987, and prior to January 1, 1995. There is no charg kilograms of foreign uranium constituting the first 37.5 percen the total weight of the uranium in new fuel assemblies loaded Charges for higher percentages of foreign uranium are:

$200/kg on foreign uranium greater than 37.5 percent bu less than or equal to 55 percent;

$250/kg on foreign uranium greater than 55 percent but les than or equal to 60 percent;

$350/kg on foreign uranium greater than 60 percent but les than or equal to 70 percent;

$400/kg on foreign uranium greater than 70 percent but les than or equal to 80 percent;

$500/kg on foreign uranium greater than 80 percent.

The percentage of foreign uranium in a fuel assembly is deter ined on the basis of natural uranium equivalence as provided i ction 116. However, the schedule of charges set out in this sectio applied to kilograms of foreign uranium (as characterized unde ction 116) that are loaded in a reactor and not to the kilogram Equivalent Foreign Uranium under section 116. No charge is im sed on foreign uranium which comprises the first 50 percent o e weight of uranium in new fuel assemblies loaded for a calenda ar after December 31, 1994. No charge is imposed on foreign ura um excluded from the charge by section 115. The foreign urani n excluded from the charge by section 115 is deemed the first fo

SECTION 114. CORPORATIONS OWNING MORE THAN ONE LICENSE

If a corporation owns more than one licensee, the percenta
foreign uranium which shall be considered included in new fue
semblies owned by such corporation for a calendar year sha
the percentage for the aggregate of all new fuel assemblies lo
by licensees owned by the corporation in that year. An owner
civilian nuclear power reactor may, by mutual agreement with
other owners of such reactor, aggregate its pro-rata share of
fuel assemblies loaded in such reactor with other new fuel as
blies in other reactors for which such owner is responsible.

SECTION 115. EXCLUSION FROM CHARGE

A charge is not imposed on foreign uranium included in a
assembly if the foreign uranium was obtained under the terms
contract entered into prior to September 8, 1986, between th
censee or corporation owning the licensee and the supplier. Fo
uranium obtained under an option exercised on or after Septe
8, 1986, is subject to the charge imposed by section 112, as ar
creased quantities of foreign uranium obtained under a contra
ecuted before September 8, 1986, but later modified to increase
eign deliveries.

SECTION 116. DETERMINATION OF PERCENTAGE

The percentage of foreign uranium to be used in the calcul
of charges under section 113 is determined by dividing the w
of Equivalent Foreign Uranium (as defined in section 3(9)) by
total weight of Equivalent Uranium (as defined in section 3(8)
tained in new fuel assemblies loaded during a calendar year.
loadings begun in one calendar year but completed in the
shall be counted in one year or the other, but not in both.

SECTION 117. FLAG SWAPPING

This section deals with the designation of the national orig
uranium for purposes of the licensee certification provided ir
tion 119 and the calculation of charges. If the national origir
particular lot of uranium has not been changed from the nati
which it was mined, that national origin will be used.

Under subsection (c), any transaction in which a party te
uranium having one national origin in return for receipt of u
um having a different national origin shall not be deemed to
involved a change in the national origins of the lots of the ura
involved in the transaction if the transaction complies with re
tory requirements and if the lots of uranium involved in the t
action are held at the same location in the custody of a third
such that, in actuality or by reason of the accounting practic
such third party, the lots of uranium involved are commingled
commingling provision under subsection (c) applies regardle
whether such transaction is structured as an exchange of ti

hange the national origins attached to the particular lots of u am involved.

The last change in the national origin of a particular lot o nium that occurred on or before January 1, 1986, will be recog f it was reflected on the appropriate DOE/NRC Form 741 th er.

Changes in national origin occurring after January 1, 1986 e recognized if they have occurred as part of an exchange c ins that, to the best knowledge of the owner of the lot of ura n question, involved equivalent quantities of uranium and di nvolve any uranium contained in tails materials or in other cribed categories and that met applicable regulatory re nents.

Subsection (f) requires the Secretary to promulgate regula hat, to the extent reasonable and practicable, ensure that the oses of this title are realized in the characterization of the n l origin of uranium.

For the purpose of this section, uranium shall include na ranium and natural uranium equivalents. In this context th f the term "equivalents" is separate and independent fron efinitions set out in section 3(8) and 3(9) and refers simply t nium in isotopic composition different from natural uranium.

SECTION 118. DISPOSITION OF CHARGES

Charges imposed and collected are to be deposited in the ge und of the Treasury of the United States.

SECTION 119. CERTIFICATION

The owner or operator of a civilian nuclear power reactor ertify to the Secretary by March 1 of each year for the pre alendar year the total weight of uranium in new fuel assem oaded in such year, the total weight of foreign uranium, the veight of foreign ursanium excluded from the charge pursua ection 115, the total weight of domestic uranium, the isotop ichment and tails assays employed in ordering enriched ura sed in fuel assemblies, and the equivalent natural uraniu ach quantity of enriched uranium reported.

SECTION 120. GOVERNMENT URANIUM PURCHASES

Agencies and instrumentalities of the United States, excep ennessee Valley Authority, would be required to purchase omestic origin uranium in the future. The use of natural ura n stockpiles or inventories owned by the United States is res d to military purposes and Government research, and to over ng and pre-production of enriched uranium by the United S nrichment Corporation established in title III. The amount o ral uranium together with the natural uranium equivalent

SECTION 210. REMEDIAL ACTION PERFORMED BY THE OW LICENSEE OF ACTIVE SITES

Uranium mill owners or licensees electing to particip
program for remedial action established by this title mu
the remedial action pursuant to applicable environme
ards established under the Uranium Mill Tailings Rad
trol Act of 1978, and they are entitled to compensatio
Uranium Mill Tailings Fund for certain costs incurred.
days of the date of enactment of this Act, the Secretary
mine the total actual dry tonnage of mill tailings which
essed for the purposes of making sales to the Federal G
Only the active sites listed in this title are eligible for
ment of the costs of remedial action.

SECTION 211. ESTABLISHMENT OF URANIUM MILL TAILIN

The Uranium Mill Tailings Fund is established as th
reimbursements to be made by the Secretary of Ener
owners or licensees. Disbursements from the Fund m
made in amounts as appropriated by Congress.

SECTION 212. CONTRIBUTIONS TO THE FUND

Contributions to the Uranium Mill Tailings Fund wou
by the uranium mill owners or licensees, nuclear power
censees, the Federal Government, and States.

The total of these contributions would be approxim
million. Fees for mill owners would be $2 million per s
per ton of commercial tailings. The Federal contributio
$300 million, which is proportional to the relative amo
tailings attributable to Federal procurement. The contri
nuclear reactor licensees would be derived from a fee
kilogram of uranium loaded in each reactor during the
1989 to 1993. States may contribute $0.10 per ton of activ
ings within their borders. The allocation of funds, on a
basis, is estimated to be as follows:

Uranium Mill Owners or Licensees—approximate
cent;

Nuclear Power Reactor Licensees—approximatel
cent;

Federal Government—approximately 25 percent;

States with Active Uranium Mills—2 percent (optic

SECTION 213. OWNER OR LICENSEE ELECTION TO PARTIC

An owner or licensee electing to participate in the
action reimbursement program is required to do so by
1989. The election must indicate whether the owner o
elects to undertake decommissioning pursuant to this titl

per ton, and the Secretary of Energy may not reimburse an o or licensee for any more than two-thirds of the cost of rem action. The owner or licensee of the site is obligated to pay at one-third of the total costs of remedial action. If the Secretar termines as of January 31, 1996, that there are excess moni the Fund, the Secretary must first refund those funds to the ticipating States, then the remaining excess to the Federal T ury.

SECTION 215. LIMITATION OF REIMBURSEMENT

No owner or licensee may be reimbursed for an amount l than $4.50 per ton of tailings, indexed for inflation. Any addit costs shall be borne by the owner or licensee.

SECTION 216. TAILINGS GENERATED AFTER THE DATE OF THE ENACTMENT OF THE TITLE

No costs incurred for remedial action concerning mill ta generated after the effective date of this Act will be eligibl compensation under this title.

SECTION 217. THORIUM SITES

This section authorizes reimbursement by the United States portion of the costs of reclamation, decommissioning, and othe medial action at active thorium sites if tailings at the site generated as an incident of sales to the United States. The po of the costs to be borne by the United States is to be determine the ratio of the tailings that were generated as an incident of to the United States to the total volume of tailings at the site.

SECTION 218. MAINTENANCE OF FUND BALANCE

The Secretary is directed to manage the Fund in such a fas that no cash deficits occur.

SECTION 219. INTEREST ON COSTS INCURRED

Reimbursements from the Fund shall include interest from date of submission of a statement for reimbursement until r bursement is made.

SECTION 220. LIMITATION OF FINANCIAL OBLIGATIONS

The contributions made and work performed under this title stitute the sole financial liability and obligation imposed u Federal law in connection with remedial action at active mill s However, this title does not affect the long-term obligation for care of mill sites or other remedial action required by the Uran Mill Tailings Radiation Control Act of 1978 and regulations mulgated by NRC and EPA thereunder.

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lamation activities were necessary in order to comply with applicable environmental standards and are thus entitled to reimbursement under this title.

SECTION 222. SECRETARY'S AUTHORITY TO MAKE REGULATIONS AND REIMBURSEMENTS

The Secretary is directed to promulgate such regulations as are necessary for the management of the Fund.

SECTION 223. STANDARDS AND INSTRUCTIONS FOR BONDING, SURETY, OR OTHER FINANCIAL ARRANGEMENTS, INCLUDING PERFORMANCE BONDS

Surety requirements under section 161x. of the Atomic Energy Act are modified to take into account the shared responsibility for financing remedial action estabiished under this title.

TITLE III—UNITED STATES ENRICHMENT CORPORATION

SECTION 310. REDIRECTION OF THE URANIUM ENRICHMENT ENTERPRISE OF THE UNITED STATES

This section designates the Atomic Energy Act of 1954 in its present form as title I of the Act and amends the Act to add a new title II pertaining to the United States Enrichment Corporation. In the discussion of section 310 that follows the section references are to new sections of the Atomic Energy Act of 1954 as added by this legislation.

SECTION 1101. FINDINGS

The findings set forth in section 1101 are generally self-explanatory.

In the judgment of the Committee, changes in the international market for enriched uranium necessitate a restructuring of the Federal uranium enrichment enterprise as provided for in title III. It is essential to the national interests of the United States that this enterprise now adopt stable, predictable fiscal and management policies and practices that enable it to compete in the international market, while continuing to meet the paramount objective of ensuring the Nation's common defense and security.

SECTION 1201. DEFINITIONS

The definitions are self-explanatory.

SECTION 1202. ESTABLISHMENT OF THE CORPORATION

This section establishes the United States Enrichment Corporation (USEC) as a wholly-owned Government corporation that is subject to the Government Corporation Control Act, except as provided in the legislation. For purposes of determining the applicability of other laws, the section clarifies that the Corporation is to be ed. Under subsection (5), operation of the Corporation "as a nuing, commercial enterprise on a profitable and efficien " is the unifying goal of these activities.

term "continuing" in subsection (5) expresses the Commit intent that the Corporation conduct its activites so as to main its economic viability as a business entity indefinitely. Th tenance of some domestic enrichment capability is essentia urposes of maintaining energy security. Thus, the Committe ssly rejects so-called "harvest" scenarios in which the enrich enterprise would be milked for short-term profits at the ex of long-term economic viability of the enterprise. The tern mercial enterprise" requires that, consistent with continuou tion and other policy goals, the Corporation conduct its activ the manner of a private sector business. The terms "profita and "efficient" are adjectives that amplify what is meant b tion as a commercial enterprise.

at is at stake here is the provision of services to others, in ng the Nation's defense programs and the U.S. commercia ar power industry. Maintenance of the physical facilities nec for the long-term provision of these services requires inte research, development, and capital construction programs.

maintenance of a "reliable and economical domestic sourc richment services" as set out in subsection (6) is expected to b esult of operation of the enrichment enterprise under th ard of subsection (5) and other provisions of the legislation se the legislation requires the Corporation to remain in bus or the long-term, enrichment services provided by the Corpo should be reliable. Enrichment services should be econom ecause the legislation will permit and directs the Corporatio et foreign competition head-on, free of current financial bu and the bureaucratic impediments of an agency structure.

section (7) is included in recognition that the commercial an y security purposes described thus far must be tempered by e consistent with, ensuring public health and safety an tenance of the common defense and security. With respect t atter concern, the Corporation would play a critical role i ding enrichment services necessary for producing nuclear sub e fuel and other defense-related purposes and in helping t ve U.S. nonproliferation goals.

section (8) is self-explanatory.

SECTION 1301. CORPORATE OFFICES

s section is self-explanatory.

SECTION 1401. SPECIFIC CORPORATE POWERS AND DUTIES

osection (b) requires the Corporaton to conduct, or provide for conduct of, research and development that the Corporation s necessary or advisable for purposes of maintaining the Corion as a continuing, commercial enterprise operating on a able and efficient basis. Although the specific research and opment that must be accomplished is left to the judgment of Corporation, the Committee intends that it be sufficient to tain the long-term competitiveness of the Corporation.

osections (c) and (d) allow the Corporation to deal only with mers who meet existing regulatory criteria under the Atomic gy Act. Enrichment contracts must be consistent with section f the legislation, which concerns use of Government stockpiles nventories of uranium. In addition, subsection (d) continues equirement of existing section 161v. of the Atomic Energy Act erning the provision of comparable services. However, the pricrovisions of section 161v. including those relating to discrimin, are not applicable to the Corporation.

osections (e) and (f) are self-explanatory.

SECTION 1402. GENERAL POWERS OF THE CORPORATION

is section is self-explanatory.

TION 1403. CONTINUATION OF CONTRACTS, ORDERS, PROCEEDINGS AND REGULATIONS

is section generally continues all contracts to which the uraninrichment enterprise through DOE is now a party, as well as censes, privileges, orders, determinations, rules and regula- enjoyed by or applicable to the enterprise. The Corporation not change existing orders, rules and regulations affecting h, environment and nuclear safety. These remain in effect changed by the Secretary of Energy.

the time of enactment, DOE may be involved in various judind administrative proceedings. Subsection (c) provides for the ral substitution of the Corporation for DOE to the extent that proceedings properly involve the enrichment enterprise.

SECTION 1404. CERTAIN PENDING LITIGATION

is section would settle outstanding litigation between DOE the Tennessee Valley Authority (TVA) concerning demand ges owed by the enrichment enterprise for power not taken. ection (a) requires the Corporation to pay TVA the amount of billion plus interest from the date of enactment. In recognition there has been fault on both sides of the dispute and that it is ult under the circumstances to quantify blame precisely, the nt is set half-way between the net present value of DOE's best to settle the dispute and the net present value of TVA's best It is the Committee's expectation that the Corporation will ce the $1.3 billion payment using its general borrowing auty under section 1507.

disputed contracts. This power is used by DOE at Oak Ri
nnessee for purposes unrelated to enrichment.

ubsection (c) concerns a separate matter from the TVA disp
effect, it provides that the Corporation shall continue the
nment enterprise's existing "utility services" contracts with
ard to the outcome of a pending lawsuit concerning their val
and that the Corporation may enter into such type of contra
he future.

SECTION 1405. LIABILITIES

his section operates as a catch-all provision. All liabilities t
attributable to operation of the enrichment enterprise prior
ctment and that are not dealt with elsewhere in the legislat
remain liabilities of the United States. At present, the C
tee is unaware of any actual liabilities that fall within this ca
y.

SECTION 1501. ADMINISTRATOR

nder this section, the powers of the Corporation are ves
ly in an Administrator, who is appointed by the President a
firmed by the Senate. The Administrator serves for a fixed te
years and may be removed in accordance with subsection (b
by the President and only for neglect of duty or malfeasan
ffice.

ubsection (c) provides that the Secretary of Energy shall ex
general supervsion over the Administrator with respect to m
involving the common defense and security, health safety,
ironment, and nuclear hazard indemnification. For all oth
poses, the power of the Corporation is solely vested in the
istrator. In particular, notwithstanding contrary provisions
Government Corporation Control Act, the Administrator
sole power to declare dividends to be paid to the Treasury
as sole authority over all other fiscal matters. In this rega
Committee does not intend that the Secretary, the Director
Office of Management and Budget, or any other officer or e
ee of the Executive branch exercise any authority over the
istrator, either directly or indirectly.

SECTION 1502. DELEGATION

his section is self-explanatory.

SECTION 1503. ADVISORY BOARD

hile the Committee is not willing to vest the power of the C
tion in a board of directors, it concludes that the performan
e Corporation should be regularly reviewed by a collegial bo
ng expertise in management and disciplines relevant to the
ment enterprise. This function will be exercised by the Advi
oard. In addition, the Committee believes that, when approp
the Secretary and the Administrator should be able to re

ed, in the management of an electric utility.

e legislation makes members of the Advisory Board subject
ral laws and regulations regarding conflicts of interest. Fo
ict of interest purposes, the Committee intends that the Adv
Board meet no more than 130 days in any 365-day consecutiv
d and thus that the members of the Advisory Board be "sp
Government employees" as defined in 18 U.S.C. 202(a). In add
the Committee expects the Secretary of Energy to take suc
n under 18 U.S.C. 208(b) as necessary to ensure that the prov
of 18 U.S.C. 208(a) do not apply to any members of the Adv
Board.

SECTION 1504. EMPLOYEES OF THE CORPORATION

e Committee intends that officers and employees of the Corp
n be subject only to ultimate supervision by the Administra
Although this directive is not intended to prevent a norma
of command within the Corporation, it does preclude officer
employees from being subject to the supervision of anyone ou
the Corporation, including the Secretary of Energy.

SECTION 1505. TRANSFER OF PROPERTY TO THE CORPORATION

is section requires the Secretary to transfer to the Corporatio
erty used by the enrichment enterprise that will be useful
Corporation in the performance of its mission, subject to ce
qualifications. The Committee expects the Secretary to consu
the Administrator in making this transfer. Should the Secr
elect not to transfer some right, title to, or interest in any re
ersonal properties to the Corporation that, in the judgment
Administrator, are related to and materially useful in the pe
ance of the functions of the Corporation, it is expected tha
Secretary will fully justify such decision.

e Committee believes that, under foreseeable market cond
, the existing K–25 gaseous diffusion plant in Oak Ridge, Te
ee and the existing gas centrifuge facilities in Portsmout
, cannot be operated profitably by the Corporation, Thes
s are left under the control of the Department. However, th
mittee does intend to transfer the enrichment operations offi
ed at the Oak Ridge K–25 plant. This office is responsible f
ations management of the facilities in Paducah, Kentucky, an
smouth, Ohio, as well as other functions.

ragraph (a)(4) provides for the Corporation to receive the D
ment's stocks of fuel materials except those that have been a
ed to national defense activities. For these purposes, the Con
ee intends that DOE and the Corporation adopt the allocatio
ained in a memorandum on the use of DOE inventories date
uary 5, 1985, from James W. Vaughan, Jr., Acting Assista

ess to AVLIS technology. However, the subsection does n
nsfer any lasers or other equipment being used as AVLIS re
rch because this equipment is also being used for other Govern
nt research purposes. The Department, which presently con
cts with national laboratories for the performance of AVLIS an
er enrichment research, is directed to give the Corporation nec
ary cooperation and support on a reimbursable basis for pu
es of arranging the efficient performance of this and any othe
earch in the future. However, nothing in this Act should be con
ued as restricting the Corporation from funding AVLIS researc
development activities necessary to the achievement of th
poses of this title, separately from the Department of Energy

SECTION 1506. CAPITAL STRUCTURE OF THE CORPORATION

ubsection (a) provides for transfer of any uranium enrichmen
ds and liabilities of the Department of Energy to the Corpora
. The Secretary of Energy is directed, without further appro
ations, to transfer to the Corporation any unobligated or unex
ded balance of appropriations, any other monies available t
Department, and accounts receivable. Consistent with thi
nsfer, the Corporation assumes all liabilities of the Departmen
rgeable to such unexpended balances as of the transfer.
he Committee intends that the Corporation value transferre
ets for accounting purposes on the basis of their current boo
ue. The most recent formal source of information on the boo
ue of the enrichment enterprise's assets is the 1986 Uraniun
richment Annual Report. The data contained therein will hav
e modified to reflect ordinary value changes, such as deprecia
, occurring up to the point of transfer. The Committee intend
value of the natural uranium stockpile transferred to the Co
ation to be set at original acquisition cost. The Committee doe
intend the value of transferred assets to reflect any impute
erest that certain parties have argued has accrued under the ex
ng section 161v. pricing standard of the Atomic Energy Act.
nder subsection (b), when property or equipment transferred t
Corporation is decontaminated or decommissioned, the Depar
nt and the Corporation shall share the costs of such work base
the ratio of separative work units that have been produce
ler the ownership of each party and that are attributable to th
perty or equipment being decontaminated or decommissione
setting out this principle, the Committee does not intend to pr
de reasonable and practical methods for estimating respectiv
ponsibilities for decontamination and decommissioning, even
se methods do not yield absolutely precise results.
ubsection (c) provides for the payment of dividends from ear
s of the Corporation that, in the judgment of the Administrato
not otherwise needed by the Corporation for the furtherance
functions, including but not limited to, research and develo
nt, capital investments and the establishment of cash reserv

s, investments and reservations of funds necessary to maint
Corporation as a continuous, commercial enterprise operat
profitable and efficient basis. At the same time, however,
mittee expects the Administrator to keep in mind the inte
e United States in receiving return on the investment re
ed by the Corporation. Thus, for example, "gold plating" of
oration's investments would be contrary to the Committ
nt.

nally, under subsection (d) the Corporation is required to re
e Treasury the amount of $364 million within 20 years w
est on the unpaid balance. This principal amount represe
otal cash cost of outlays from the Treasury to the enrichm
ram since commencement of the program in 1969. (A deta
ulation of the $364 million figure is included in this report
endix I.) Payment of this amount with interest shall constit
sole recovery from enrichment customers of any previously
vered costs of the enrichment program. Various parties, n
he General Accounting Office, have concluded that the amo
nrecovered costs of the enrichment program are as large as
billion under the existing cost-recovery pricing standard
n section 161v. of the Atomic Energy Act. Although there
e who would ascribe some validity to these calculations,
mittee chooses not to do so for the following reasons.

rst, as a legal matter these "unrecovered costs" merely con
the present basis for pricing enrichment services. They do
titute an actual debt that can be recovered from enrichm
omers under present law. Neither the accounts of the Fede
et nor those of the Treasury carry any assigned value tha
butable to this so-called debt.

cond, a large component of unrecovered costs is derived f
nitial value assigned to enrichment program assets when
ram began commercial operation in 1969. For the most p
stment in these assets was originally made for military
s, specifically the production of atomic weapons. Thus,
e of these assets represented sunk costs that had nothing to
commercial enrichment.

ird, over half of the $8–9 billion unrecovered cost figure ass
y GAO represents imputed interest. Accrual of this interes
atter of Government policy not statutory law. Furthermore
not represent any actual borrowing by the enrichment en
. Despite the fact that enrichment customers have funded
y all assets of the program through revenues, imputed inte
accrued and compounded on all program assets and been
d only by payments to the Treasury. In effect, imputed inte
represented a fixed charge that applies no matter what b

he Corporation as provided in this section. To the extent that th orporation is able to return dividends to the Treasury consister ith operation in a competitive world market, the Treasury will i ffect receive a return of the unrecovered costs represented by e ting assets.

Fifth, as a practical matter, it is impossible for the enrichmer rogram to recover the higher estimate of unrecovered costs as rmal debt and also remain competitive in the world market fo nrichment services.

For all these reasons, the Committee concludes that it is bot ir and necessary to limit formal recovery of so-called "unreco red costs" to the amount of actual cash outlays made by th reasury to the enrichment program prior to this legislation.

SECTION 1507. BORROWING

This section authorizes the Corporation to finance its operatio ith the issuance of bonds and other forms of indebtedness up t 2.5 billion. This indebtedness would be secured by revenues of th orporation. Such bonds shall be payable solely by the Corporatio nd will not constitute obligations of the United States. The Corp ation may enter into binding covenants with bondholders, co erning the establishment of reserve funds and other appropriat atters, for purposes of enhancing the marketability of such bond he Corporation is exempted from the requirements of the Gover ent Corporation Control Act concerning the issuance of oblig ons and is exempted from the requirements of the Securities E hange Act of 1934. As an instrumentality of the United States, th orporation is exempted from the Securities Act of 1933.

Further, any bonds issued by the Corporation under this sectio ill not be backed by the full faith and credit of the United State he principal of and interest on such bonds are instead to be pai oley from revenues of the Corporation. The authority to incu uch indebtedness is fully authorized by this statute, without th eed for further appropriations.

SECTION 1508. PRICING

This section in effect requires the Corporation to set prices o ne basis of the competitive world market for enrichment service he Committee believes that, with the changes made by the legisl on, the Corporation will be able both to operate profitably and b ompetitive with foreign suppliers of enrichment services. Howe r, should the world market price dip below a level that permi ll recovery of the Corporation's costs, the Corporation is autho ed to price its services according to the market with no necessar xpectation that these costs will be recovered at a later time. I hort, recovery of costs and profitability are goals of the Corpor on over the long term, but not legal requirements that must b atisfied when business conditions make their satisfaction impract al mpt has been made to define the "long-term" because the Corp ation's pricing requirement is inherently subjective and signif antly dependent upon the business judgment of the Administrato milarly, the Committee is aware that for various reasons th orld market price for enrichment services is in actuality likely t nsist of a band of prices rather than a single number. The Corp ation's approach to this and other specific issues must again be d ded as a matter of business judgment. However, this judgmer ust of course be guided by the provisions of this section and ult ately the purposes of title III.

In contrast to the pricing scheme applicable to commercial cu mers, the Corporation is directed to price its enrichment service rovided to the Department on the basis of yearly cost recover ithout reference to world market prices.

Finally, the Committee recognizes that the financial health e enrichment program has suffered from the relatively cumbe me procedure that the Department must now go through in se ng prices and other contractual terms and from the requiremer at these items be publicly divulged. Accordingly, this section e mpts the Corporation from the Administrative Procedure Act i tting prices and other contractual terms.

SECTION 1509. AUDITS

Annual audits are required to be performed according to Gene ly Accepted Accounting Principles using standards appropria r commercial corporate transactions. Thus, the Committee i nds that the Corporation structure its books so as to meet thes andards.

SECTION 1510. REPORTS

This section contains self-explanatory annual reporting requir ents.

SECTION 1511. CONTROL OF INFORMATION

The Corporation will be guided by the same principles as thos at apply to the Department concerning the exchange of restric data and the dissemination of scientific and technical informa on relating to atomic energy. No contracts will be allowed b een the Corporation and another person unless that perso grees in writing not to permit any individual access to restricte ata until the Office of Personnel Management has made an inve gation of the character, associations, and loyalty of the individua nd reports to the Corporation that such access will not endange e common defense and security. Furthermore, the Corporatio ill not employ or permit any individual access to restricted dat ithout the same investigation and report, unless the access is d rmined by the Corporation to be consistent with the national i erest. If that person has previously had a similar investigation b nother Government agency and received a clearance, then suc learance may be acceptable to the Corporation. If the investig gation will conduct a full field investigation.

The present standards and specifications used by the Depar concerning the scope and extent of investigations will be appl o the Corporation. If the Corporation deems it necessary to c heir content and form, it will make its recommendations Department, and the Secretary will take the appropriate Whenever a state of war exists, the Corporation is authori employ individuals and allow their access to restricted data ng the investigation and report, provided the Corporation hat such action is required to prevent impairment of its act n furtherance of the common defense and security. The Co ion shall not have the power to control or restrict the disse ion of information other than as granted by this or any othe ncluding section 1402(n) of the Atomic Energy Act, as amend his legislation.

SEC. 1512. PATENTS AND INVENTIONS

Subsection (a) states that the Corporation will have the rights to inventions or discoveries conceived by contractors Corporation as the Department does with its contractors. S ion (b) directs the Department to notify the Corporation and ccess to any reports or patent applications it receives that i matters that are the responsibility of the Corporation. The ports and applications will be held in strictest confidence Corporation. It will not release the information without appro he inventor or owner except to carry out any legal provisi under special circumstances determined by the Corporation.

Subsections (c) and (d) state that the Corporation may a ime apply for a patent license from the Department when t s within the Corporation's authority. Subsection (e) provide he Corporation will not be held liable for any damages due mposition of secrecy orders on any patents or reports. Subs f) states that the Corporation shall not have to pay any awa settlements based on claims of patent infringement except xtent that the judgment is attributable to activities of the ration after its date of incorporation.

Subsection (g) directs the Corporation to keep informed rights and responsibilities concerning its patents and shall ny appropriate action needed to protect its rights. The D ment shall inform the Corporation of any matters affectin Corporation's rights and responsibilities and will seek and fol ppropriate the advice of the Corporation on these matters.

SECTION 1601. LICENSING

This section continues current law with respect to the lic f existing facilities using gaseous diffusion technology.

The section exempts the Corporation and its contractors fr censing requirements under the Atomic Energy Act with resp existing gaseous diffusion plants to the same degree as the D ment and its contractors are presently exempted. The Corp described further under the analysis of section 312, the magn of potential harm associated with worst case accidents at er ment plants is considerably less than that at nuclear reactors.

Apart from licensing, the Corporation will be subject to ex restrictions in the Atomic Energy Act concerning transfer ar ivery of source, special nuclear and byproduct materials anc luction and utilization facilities. The Corporation will also be ect to the jurisdiction of the Nuclear Regulatory Commissior he Department of Transportation concerning packaging and portation of source, special nuclear and byproduct materials.

SECTION 1602. EXEMPTION FROM TAXATION AND PAYMENTS IN LI TAXES

This section is self-explanatory.

SECTION 1603. MISCELLANEOUS APPLICABILITY OF THE ATOMIC EN ACT

Subsection (a) of this section makes various requirements ar horities under the Atomic Energy Act applicable to the Co ion. These include: (1) a requirement that the Corporation suspected violations of the antitrust laws (section 105b.); (2) ex ion of Corporation contractors from atomic energy licensing ion 110); (3) a grant to the Corporation of the power to issu poenas and give oaths to witnesses (section 161c.); (4) authori for Corporation employees and employees of contractors to firearms and make arrests (section 161k.); (5) authorization to easements and rights-of-way across real property of the Co ion (section 161q.); (6) prohibition on cost-plus-percentage- contracting and on reimbursement of the Federal income ta contractors (section 165); (7) authorization for the President the services of other agencies in protecting restricted data property of the Corporation (section 221a.); (8) provision of cri penalties for photographing sensitive installations and equi of the Corporation (section 230); and (10) authorization for th torney General to seek injunctions in the name of the U States at the request of the Corporation for violations c Atomic Energy Act.

Subsection (b) allows the Secretary to provide for the operat future licensed facilities of the Corporation when a licens been revoked, but operation of the facility in question is rec by the public convenience and necessity.

SECTION 1604. COOPERATION WITH OTHER AGENCIES

This section is self-explanatory.

SECTION 1605. APPLICABILITY OF ANTITRUST LAWS

The Committee believes that it is inappropriate to make th nittee believes that the instances in which the c nd security or other aspects of the public interest ects of the public interest protected by antitrust are, but in such instances the Corporation should ll public interest requires.

SECTION 1606. RELATIONSHIP TO FEDERAL BU

As discussed elsewhere in this report, the princ he legislation is to restructure the DOE uranium erprise so that it can function as a business enter ropriate because it provides services in a commer s costs of operation are reflected in its prices.

Accordingly, this section removes the Corporatio ral budget process, except to the extent that ap nade to the Corporation after enactment and to ividends are paid to the Treasury. With these tw orporation will operate as a self-contained busine o financial effect upon Federal revenues or expen he Committee believes it is inappropriate for the C ncluded in the Federal budget or in the calculati eficit amounts under the Gramm-Rudman-Holling the latter case is particularly important since th utlays may need to exceed revenues from time ormal course of business. The pressure for a bala ted by Gramm-Rudman-Hollings would as a pract preclude such temporary deficits.

The Committee is aware that off-budget treatmen the past as a device for avoiding financial oversi hat place a burden on the Treasury, but believes th on does not fall within this caregory.

SECTION 1607. INTENT

This section is self-explanatory.

SECTION 1608. REPORT

This section requires the Administrator to submit asibility and advisability of transferring the Cor ate ownership. The report is required to be submit ent and the Congress between January 1, 1993, an 998. The Committee does not intend by this sectio pproval or disapproval of privatization of the C ather to defer such a decision until after the en rise has achieved economic viability under this leg

SECTION 311. NUCLEAR HAZARD INDEMNIFIC

SECTION 312. MISCELLENEOUS PROVISION

Subsections (a), (b) and (c) of this section make c
nical changes to the Atomic Energy Act.

Subsection (d) provides in paragraph (1) that, exce
of import or export, enrichment facilities and rel
shall not be considered production or utilization faci
Atomic Energy Act. The effect of this change is to a
ration and other firms to obtain NRC licenses for
facilities under the less burdensome provisions ap
handling of source or special nuclear materials un
Energy Act and 10 C.F.R. Parts 40 and 70. However,
dling licenses under parts 40 and 70 do not apply to
richment facilities until they perform enrichment
source or special nuclear materials. Nevertheless,
from the standpoint of the common defense and secu
all facilities that may be capable of enriching uran
those that have actually performed enrichment. T
(2) of subsection (d) required the Nuclear Regulatory
promulgate regulations for purposes of regulating th
ership and possession of new uranium enrichment
graph (3) of subsection (d) makes conforming change
Energy Act for purposes of clarifying that private o
richment facilities is permitted. Paragraph (4) pr
penalities for sabotage of licensed enrichment facilit

The Committee believes it is appropriate to licen
ment facilities under the less burdensome standard
the handling of source and special nuclear materia
as production and utilization facilities as provided
law. Production and utilization facilities include nu
actors, and the standards for licensing such facilitie
primarily because of attendant radiological hazards
nuclear power reactors, enrichment facilities pose
lower radiological hazard. In addition, unlike the si
ing reactors, there is extensive knowledge of the ha
with enrichment facilities that has been derived fro
case accidents. The threat to public health and sa
dents at enrichment facilities is much less than
with nuclear reactors and thus justifies less burden
requirements.

Finally, subsection (e) has the effect of exemptin
tion from sequestration occurring as a result of the
cit amount being exceeded under the Gramm-Ru
law.

SECTION 313. AUTHORIZATION OF APPROPRIAT

ONGRESSIONAL BUDGET OFFICE
S. CONGRESS
ASHINGTON, D.C. 20515

October 30, 1987

Honorable J. Bennett Johnston
Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The Congressional Budget Office has revi
Revitalization, Tailings Reclamation and Enrichme
ordered reported by the Senate Committee on
Resources, October 1, 1987. This estimate
estimate prepared by CBO on October 23, 1987.

The bill would provide assistance to the domes
through cost-sharing for the cleanup of uranium
sites, and would establish a schedule of charges
that use imported uranium to meet more than 3
uranium fuel needs. The bill also contains se
would affect the government's uranium enr
including removal of a restriction on the enr
uranium under the Atomic Energy Act, and
government-owned uranium enrichment corporation
new borrowing authority to replace the go
enrichment program in the Department of Energy (

CBO estimates that enactment of this bill would
about $20 million in fiscal year 1988, and by
million over the 1988-1992 period. All but
estimated 1988 outlays would result from direct s
the bill; outlays for establishing the U.S. En
would require appropriations. Over the 1988-199
million of the increase in estimated outlays woul
spending; appropriations would be required for
enrichment corporation and for thorium mill tailings

Costs of the bill would be significantly lower th
the corporation were to follow the current DOE
of uranium enrichment services and the curren
enrichment research, development, and facilities
other hand, costs could exceed our estimate
enrichment corporation adopts a very aggr
investment strategy. If the uranium enrichment
a successful competitor in the world market for
any short-term increase in federal expenditures w
1992 by corporation earnings.

ewed the Uranium
ent Act of 1987, as
Energy and Natural
supersedes the cost

stic uranium industry
wastes at active mill
for electric utilities
37.5 percent of their
veral provisions that
richment enterprise,
ichment of imported
the creation of a
with $2.5 billion of
vernment's existing
DOE).

l increase outlays by
$400 million to $500
$3 million of the
spending provisions of
richment Corporation
2 period, all but $15
ld result from direct
both establishing the
reclamation.

an these estimates if
strategy for pricing
t plans for uranium
investment. On the
if the new uranium
ressive pricing and
corporation becomes
enrichment services,
would be offset after

cleanup of tailings arising from the production of thorium for the federal government.

Title III of the bill redirects the federal government's uranium enrichment enterprise by establishing the United States Enrichment Corporation as a wholly-owned government corporation, and would transfer existing enrichment assets and liabilities of the U.S. Department of Energy (DOE) to the new corporation. The bill would provide the new government corporation with $2.5 billion of borrowing authority, but the corporation could not borrow from the Federal Financing Bank (FFB). Instead, it would issue bonds or other instruments of debt to the general public, with only corporation revenues to back this borrowing.

Title III defines the enrichment corporation's initial debt to the Treasury as $364 million, and specifies that the corporation must repay this amount, with interest, within a 20-year period. The first $300 million of debt repayment would be placed into the uranium mill tailings fund, and remaining payments would be paid into miscellaneous receipts of the Treasury. The bill specifies this debt repayment as the sole recovery by the government of previously unrecovered costs for U.S. uranium enrichment activities. Under current law, the General Accounting Office (GAO) estimates these unrecovered costs at approximately $8.5 billion, while the Department of Energy (DOE) estimates unrecovered costs at about $3 billion.

Enactment of the bill would settle a dispute between the DOE and the TVA over power contract charges that currently constitute nearly half of the enrichment program's operating expenses. The bill would require the new enrichment corporation to pay $1.3 billion to TVA "as soon as practicable" after enactment, and specifies that this payment shall constitute full satisfaction of the obligation of the enrichment program to pay power contract charges to TVA.

Title III of the bill also authorizes such sums as may be necessary to establish the uranium enrichment corporation and transfer program responsibilities from the DOE to the new corporation. Finally, the bill would move the government's enrichment program off-budget by declaring that budget authority, outlays, and revenues of the enrichment corporation shall not be included in total budget authority, total outlays, or total revenues of the U.S. government budget.

Federal Budget Impact

Enactment of the Uranium Revitalization, Tailings Reclamation and Enrichment Act of 1987 would affect the federal budget in several ways: (1) collection of receipts and expenditures for the uranium mill net spending for the federal uranium enrichment program, including settlement of the TVA-DOE contract dispute. Many of the budget impacts of this bill would occur after 1992, and depend on a number of uncertain factors -- including the extent to which the enrichment corporation would use its borrowing authority, its success or failure in the world market for enrichment services, and the timing of uranium mill tailings cleanup. This estimate encompasses only the budget impacts over the next five years.

Uranium Mill Tailings Fund. Collections from uranium mill licensees and nuclear power reactor licensees would increase federal receipts by about $300 million over the 1989-1992 period; these receipts would be deposited into the uranium mill tailings fund. Additional nonfederal contributions to the fund would total at least $200 million after fiscal year 1992. (An additional $300 million in fund receipts would be provided as an intra-governmental transfer from the uranium enrichment corporation.)

Mill tailings fund receipts would be offset by outlays from the fund to reimburse mill licensees for reclamation at active mill sites. CBO expects that most of these outlays would occur after 1992, but that $50 million to $100 million of fund outlays would occur in the 1989-1992 period. No receipts or expenditures of the Uranium Mill Tailings Fund are expected in fiscal year 1988.

Thorium Tailings Reclamation. CBO estimates that the bill's authorization of spending for thorium mill tailings cleanup would increase outlays by about $50 million (in 1987 dollars). However, DOE has not yet identified any thorium sites that would definitely require federal cost-sharing for reclamation. Currently, there is no schedule for thorium cleanup, and it is unlikely that the government would expend more than $10 million on thorium tailings cleanup over the next five years.

United States Enrichment Corporation. CBO estimates that establishing the proposed uranium enrichment corporation and transferring program responsibilities from DOE to the new corporation would cost about $3 million in fiscal year 1988 and $2 million in 1989.

Current law requires the repayment of all unrecovered costs for past enrichment activities, but does not define a specific amount for these costs or provide a specific repayment schedule. The bill defines outstanding debt for the enrichment program at $364 million, and would require repayment of this amount with interest over a 20-year period. (However, $300 million of the repayment would be deposited in the mill tailings fund to provide the federal share of mill tailings eclamation under the bill). To the extent that the government vould forgo any potential recovery of costs in excess of $364 million, he bill represents a potential loss in federal receipts, over the long erm, relative to the DOE and GAO estimates of unrecovered costs approximately $3 billion and $8.5 billion, respectively). However, the evels of future enrichment revenues will depend in large part on the uture market for federal enrichment services. Moreover, recent ppropriations for the DOE enrichment program have not required any nnual cost recovery. Therefore, CBO does not expect enactment of he bill's debt provision to result in any significant change in nrichment cost recovery during the 1988-1992 period.

'he largest potential spending impact of the bill over the next everal years would result from providing the new uranium enrichment orporation with $2.5 billion of borrowing authority. Under current aw, the government's uranium enrichment program must cover all urrent costs by collecting revenues equal to or greater than new bligations, for a net annual appropriation of no more than $0. The roposed corporation would not be subject to this annual budget imitation. As a result, enactment of the bill could result in an ncrease in federal expenditures over the next five years, subject only o the limit on total corporation borrowing--$2.5 billion. The bill tates that the financial transactions of the corporation are not to be ounted in the budget totals.

BO expects that the corporation would use some of its borrowing uthority to pay its $1.3 billion debt to TVA. This principal payment vould be an intra-governmental transaction, and hence would have no et budget impact. However, financing the TVA debt settlement hrough the corporation's borrowing would increase federal outlays or interest expense because the enrichment corporation would borrow t a higher cost than the Treasury.

)n the other hand, the bill's proposed settlement of the enrichment-'VA debt would probably result in additional receipts over time, to he extent that TVA raises the rates that it charges its nonfederal ustomers to compensate for the net loss in TVA receipts that would esult from the legislated settlement. Based on information provided y TVA, CBO estimates that the proposed settlement would reduce 'VA receipts by $200 million to $300 million over the next five years, ompared to what TVA would receive from the enrichment program nder current law. (These amounts would be offset by an equivalent ecrease in enrichment outlays over the same time period).

ased on information provided by TVA and DOE, CBO estimates the otal reduction in enrichment payments to TVA at $400 million to 500 million. If TVA raises the rates it charges to private power sers to compensate for this loss in intra-governmental receipts, the net budget impact would be a decrease in total federal outlays of $400 million to $500 million over time. However, most (if not all) of these increased receipts would probably occur after 1992, because TVA would have no need to raise its rates in the near term after receiving the $1.3 billion debt payment from the enrichment corporation.

CBO estimates that the enrichment corporation would use its borrowing authority to increase net expenditures by approximately $500 million over the next five years for research and development, and for construction activities that are not covered by revenues for uranium enrichment services. Other costs of the program, including operating expenses for the production of enriched uranium, interest expenses for the corporation's borrowing, and repayment of the corporation's debt to the Treasury, could be covered by revenues from the sale of enrichment services. The estimated net borrowing would result in a net increase in federal outlays over the 1988-1992 period because such borrowing would represent expenditures by the enrichment corporation that are not covered by enrichment revenues in this same period. CBO estimates that approximately $20 million of the five-year increase would occur in fiscal year 1988.

The estimated net increase in outlays reflects both increased gross spending and decreased receipts for enrichment services. CBO expects that the corporation would set enrichment prices, in accordance with the world market, to recover all costs over time, but we expect them to be lower than under current law. For example, prices might be reduced to reflect the reduction in the demand charge payments to the TVA. In addition, the corporation could adopt an aggressive pricing strategy (i.e., lower prices) in the short term in an attempt to increase potential market share over the long term. Any such reduction in enrichment prices would reduce program receipts over the next five years. However, the corporation may eventually make a profit on its investments, resulting in dividend payments to the Treasury, but such payments would not occur in the 1988-1992 period.

Other provisions in the bill are expected to have no significant impact on federal outlays.

Summary. CBO estimates that enactment of the bill would result in a net increase in federal outlays of about $20 million in fiscal year 1988, and $400 million to $500 million over the 1988-1992 period. This estimate includes both "on-budget" and "off-budget" impacts of the bill. As noted above, the bill defines expenditures and receipts of the uranium enrichment corporation to be off-budget and provides that the corporation's net expenses shall not be used for calculating the federal deficit under the Balanced Budget Act.

This estimate assumes that the new corporation would adopt changes in pricing and investment strategies for the government's uranium enrichment enterprise. If there is little or no change in DOE's plans for pricing and investment, then the costs of the bill would be significantly lower than $400 million to $500 million over the next five years. On the other hand, the new corporation could adopt marketing and investment strategies that result in higher costs than CBO estimates.

State and Local Costs

States in which active uranium mill sites are located may contribute approximately $19 million to the uranium mill tailings fund. However, such contributions are not required by the bill. The voluntary contributions would be made over the 1990-1994 period, with individual contributions based on the amount of mill tailings in each state. States that contribute to the fund are entitled to reimbursement, up to the amount of their contributions, if the fund contains excess amounts after all cleanup is completed. The states listed in the bill as containing active mill sites are: Colorado, New Mexico, Texas, Utah, Washington, Wyoming, and South Dakota.

Previous Estimate

This estimate supersedes CBO's previous estimate for the bill prepared on October 23, 1987. The previous estimate incorrectly stated that any charges collected with Title I of the bill would be deposited in the Uranium Mill Tailings Fund, whereas the bill directs that any such charges would be deposited in general receipts of the Treasury. CBO's estimate of outlays under the bill has not been changed, but portions of the explanation have been clarified.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,

Sincerely,

James Blum

for Edward M. Gramlich
Acting Director

cc: Honorable James A. McClure
Ranking Minority Member

ation of the regulatory impact of the bill as reported.
Title I of the bill establishes a schedule of charges that would be
aid by each licensee of a civilian nuclear powerplant to the Secre-
ary of Energy on the basis of the amount of foreign uranium
oaded into such powerplants. The bill requires each owner or oper-
tor of a nuclear powerplant to certify certain information annual-
y to permit the calculation and assessment of these charges. In ad-
ition, provisions are included in the bill for determination of the
ational origin of uranium used in these powerplants. The Secre-
ary of Energy is directed to promulgate regulations to implement
hese provisions.

Accordingly, title I will have a significant reglatory and paper-
ork impact on the 55 licensees that operate the 109 nuclear reac-
ors in operation in the United States. The title will also have a
egulatory and paperwork impact on the firms that import, trans-
ort and convert uranium ore for these plants as a result of the
eed to maintain proper accounting of the national origins of ura-
ium in commerce.

The Department of Energy will be required to establish a pro-
ram to assess and collect charges under the title, to characterize
he flow of foreign uranium in domestic commerce, and to enforce
he requirements of the title.

Title II of the bill establishes a funding mechanism for the recla-
ation of uranium and thorium mill tailings sites. The title does
ot establish new regulatory requirements for such reclamation, in
rder nor does it alter the regulatory scheme within which recla-
ation would occur. Modest paperwork requirements would be re-
uired to collect the contributions to the fund required under title
I of domestic utilities operating nuclear powerplants, and to
nsure that the costs of reclamation at individual sites are properly
ounted and allocated among the Government, the utilities and the
ite owners under the formula set forth in the title.

Title III of the bill establishes the United States Uranium En-
ichment Corporation to operate the Government's uranium en-
ichment enterprise on a continuing, profitable basis. This title is
ot a regulatory measure, and, as such, has no regulatory impact
n private firms or businesses.

No personal information would be collected in administering the
rograms under this bill, and the bill has no impact on personal
rivacy.

EXECUTIVE COMMUNICATIONS

A legislative report on S. 1084 and amendment No. 176 dated
uly 7, 1987, was received by the Committee from the Nuclear Reg-
latory Commission on July 14, 1987.

4, 1987. On Septem
rom the Secretary
istration on the pro
are reprinted belov

nber 30, 1987, the Commit
of Energy setting forth
posed legislation.
v.

NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555

CHAIRMAN

July 7, 1987

SENATE COMMITTEE ON
ENERGY AND NATURAL RESO
JUL 1 - 1987
WASHINGTON D.C. 20510

The Honorable J. Bennett Johnston, Chairman
Committee on Energy and Natural Resources
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

I am responding to your request for the Nuclear Regulatory Commission's comments on S. 1084 and the Ford-Johnston amendment to it (Amendment No. 176), the "United States Uranium Enrichment Act." The proposed legislation would establish a wholly-owned government corporation to manage and operate the uranium enrichment facilities now owned by the Department of Energy.

Section 1601 provides that the NRC would license the uranium enrichment production facilities of the Corporation. The Commission takes no position regarding whether the Corporation's facilities should be licensed. If we are to license the facilities, Congress needs to provide the NRC with more guidance on the nature of its licensing review and regulatory responsibilities than that set forth in section 1601. Specifically, the legislation should address whether NRC is to conduct antitrust reviews under section 105 of the Atomic Energy Act, whether the National Environmental Policy Act is to be applicable, and what role, if any, the NRC is to play in enforcing other applicable federal environmental laws at the licensed facilities. In addition, a determination should be made regarding how the facilities will be covered by the Price-Anderson Act. The amendment's treatment of this last issue is confusing since it appears to deal with Price-Anderson Act coverage of the Corporation as a contractor of the Department of Energy, rather than as a licensee in its own right.

Section 1603 identifies a number of Atomic Energy Act provisions that would be applicable to the Corporation. Further consideration of this matter is warranted. For example, section 110(a) would be applicable. This would mean that the Corporation's contractors would not be subject to NRC licensing. Largely as a matter of regulatory policy, contractors of Commission licensees are not currently subject to Commission licensing, although under the Atomic Energy Act certain contractors could be made subject to NRC regulation. We see no reason why the Corporation's contractors should be treated differently, from the standpoint of statutory law, than other contractors.

We also note that by making section 188 applicable to the Corporation, the Corporation could decide that one of its facilities that had been ordered shut down by the Commission for safety reasons should be taken over by someone else and allowed to operate on a temporary basis. To do so the Corporation would need to make a finding that the public convenience or necessity required operation of the facility. The Commission believes that such an extraordinary determination should be made by some other qualified entity, perhaps by the Department of Energy. Otherwise, the Corporation would, in effect, be able to exempt itself from licensing requirements.

Sincerely,

Lando W. Zech, Jr.

Lando W. Zech, Jr.

cc: The Honorable James A. McClure

Statement of the Honorable Helmut A. Merklein
Administrator, Energy Information Administration
U.S. Department of Energy

Before The

United States Senate
Committee on Energy and Natural Resources
Subcommittee on Energy Research and Development

March 9, 1987

milling industry's viability and our projections of futu
prices, consumption, and supplies. Accompanying me toda
Dr. Gene Clark, Director of EIA's Nuclear and Alternate
Division.

We became involved in this effort in April 1983 when the
Secretary of Energy assigned to EIA the responsibility f
menting the information collection and analysis requirem
Section 170B of the Atomic Energy Act of 1954, as amende
section requires the Secretary to monitor and determine
for the years 1983 through 1992, the status of the U.S.
mining and milling industry's viability.

To assist the Secretary in his determination, EIA collect
from the Nation's uranium and nuclear power industries on
such as uranium reserves, production, exploration, employ
financial performance and marketing activity. These data
analyzed and published annually by EIA. The latest such
cation, which I am submitting for the record, is the Dome
Uranium Mining and Milling: 1985 Viability Assessment.
report was published in November 1986. Similar reports w
published for the years 1983 and 1984.

nium industry. The bill repeals
nestic enrichment of foreign u
nium mining industry does not me
bility. The bill replaces the ex
rges for the use of imported ura
uire U.S. electric utilities to p
gram for imported uranium tha
nium loaded into utility reactors
rges would apply to imports exce
the utilities.

uranium use charges collected
the bill would be deposited in th
eral purchases of uranium to
s not apply to the Tennessee Val
tricts the use of existing U.S.
ernment research, and overfeedin
nium by the government.

le II of the bill establishes a
vide for partial reimbursement
nium mills for the costs of reme
tailings at those sites. The fu
licensees, nuclear power rea
ernment. The states in which
contribute to the fund, but
ndatory.

mill tailings fund contributions
ities will be determined by form
tribution is fixed as $300 mill
nium enrichment receipts. Ther
eral contribution, but CBO estim
make the required contribution
tributions to the fund will take
mill tailings fund will be use
medial action costs up to $4.50 pe
inflation. The licensees will
ings cleanup.

le II also authorizes federal exp
tailings at sites involving sales
horization is limited to such su

an existing statute that prohibits
uranium ore when the domestic
eet established criteria for market
isting statute with a schedule of
anium. Until 1994, the bill would
ay charges of $200 to $500 per
at exceeds 37.5 percent of the
s. After 1994, the schedule of
eeding 50 percent of uranium used

by the government under Title I
e Treasury. Title I restricts most
domestic sources; this restriction
lley Authority (TVA). Title I also
uranium inventory to military and
ng and pre-production of enriched

Uranium Mill Tailings Fund to
to owners or licensees of active
dial action associated with existing
nd will receive contributions from
ctor licensees, and the federal
active mill sites are located may
such state contributions are not

from mill licensees and electric
ulas set in the bill. The federal
ion, to be derived from federal
re is no fixed schedule for this
ates that the enrichment program
by the mid-1990s. The nonfederal
place over the 1990-1994 period.
d to reimburse mill licensees for
er ton of mill tailings, as adjusted
bear any additional cost of mill

penditures for cleanup of thorium
to the federal government. The
ms as are necessary to pay for

reserves to supply U.S. needs;

Supply Response Capability

Whether the mining and milling industry has production capacity to meet U.S. needs;

Financial Capability

Whether the industry is able to raise the fu necessary to maintain adequate production ca

Import Commitment Dependency

Whether cortracts for importation of uraniu more than 37.5 percent of U.S. uranium requi any period covering two consecutive years.

he first three of these criteria are measured against f the U.S. nuclear power industry in the event of hyp isruptions of uranium import supplies; thus, in some hey represent our uranium industry's ability to respo mport disruptions.

by the world situation.

rt characterizes the world uranium market by pointing out
h domestic and foreign consumer inventories of uranium
, representing over 5 years' worth of future consumption.
lf the uranium needs of U.S. utilities for the 1986 to
iod were already contracted for at the end of 1985;
coverage of foreign utilities is much higher.

s outside the Centrally Planned Economies with signifi-
nium export potential are Australia, Canada, South
and other countries (primarily Gabon, Namibia, and Niger)
n the past, have not generally exported into the United
Other than the United States and Canada, countries which
r uranium consumers (such as those of Western Europe and
East) do not produce much, if any, uranium.

l area of interest expressed in the Committee's request
s projection of uranium prices, supplies, and consumption
e. These topics are also covered in the EIA report
d earlier. Because of continued high inventory levels
r supplies, we expect prices for new uranium supply
s to remain below $20 per pound of uranium oxide (in
1985 dollars) through the rest of this decade. During

illion pounds per year through the ntrast, we expect foreign consumption urrent level of about 60 million ange of 80 to 90 million pounds per ury. As mentioned earlier, we expect omestic consumption to be supplied mposition of import controls. From 30 ption is expected to come from he rest coming from inventory

world's uranium market situation has ew for the Committee's needs. py to answer any questions you may

ASSISTANT SECRETARY FOR NUCLEAR ENERGY
U.S. DEPARTMENT OF ENERGY
BEFORE THE
SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT
COMMITTEE ON ENERGY AND NATURAL RESOURCES
U.S. SENATE

MARCH 9, 1987

Chairman, I am pleased to be here today to discuss the status of the estic uranium mining industry and an estimate of the costs of the lamation of uranium mill tailings at active mining and processing sites. accordance with your letter of invitation, I will also briefly summarize status of pending litigation involving the Department and certain nium mining companies.

STATUS OF THE DOMESTIC URANIUM MINING INDUSTRY

ing the 1970's, increased civilian reactor orders and forecasts of sharp wth of nuclear power through the year 2000 led to an expansion in U.S. nium exploration, development drilling, and production. U.S. uranium duction went from a level of about 25 million pounds of uranium oxide der (U308, or "yellowcake") in 1971 to a record production level of 7 million pounds in 1980. Large inventories of uranium were built up ause production, based on long-term utility commitments, had been much ater than actual requirements. U.S. uranium production fell to about million pounds of U308 in 1984 and continued to decline to about million pounds in 1985. We estimate that the industry produced about

bout 1 year's supply.

The much lower growth rate of nuclear power, coupled with excessive inventories in the hands of utilities and miners, have reduced the market emand for uranium throughout the world. As a result of such factors as ow grade ore in some areas, excess mining capacity, and large inventories, he spot price of uranium is now almost 50 percent of the average price for elivery under older, long-term contracts.

Viability Determination

The Secretary of Energy is required by Section 170(B) of the Atomic Energy ct to make an annual determination of the viability of the U.S. uranium ining and milling industry. The determination is based on statutorily uthorized criteria and information and analysis provided by the epartment's Energy Information Administration (EIA), which has been eparately discussed by the EIA Administrator, Dr. Helmut A. Merklein. In he first such determination, the industry was found to be viable for alendar year 1983. The industry was found not viable in calendar years 984 and 1985.

mination that the domestic uranium mining industry was not
ar year 1984, the Secretary requested that the U.S. Trade
STR) evaluate the appropriateness and likely effectiveness
existing trade laws to help the U.S. industry, as well as
implications of initiating action under these laws.

ntly advised the Secretary that action under the U.S.
d not appear to be appropriate in regard to both the short
blems facing the domestic uranium mining and milling
TR concluded that any remedy granted under existing law
de the relief requested by the industry would only be
e same time, there would be an adverse impact on our
without resolving the long-term problems of the industry.
ctions under Section 161(v) of the Atomic Energy Act, the
at a major consequence of restricting the enrichment of
ould be the shift of enrichment activity from U.S.
ties to foreign facilities, thereby eroding the position
um enrichment enterprise. Copies of the Secretary's
STR response are attached.

DOE Cannot Make the Problem Go Away

The basic problems of the domestic uranium mining and milling industry cannot be cured by the Department of Energy (DOE). These problems are:

- Reduced uranium demand due to nuclear powerplant cancellations, stretchout of plant construction, and lower than projected nuclear growth.
- Low grade domestic ore. Many foreign producers have higher grade ore that can be brought to the market at a lower price than U.S. material.
- Excess uranium inventories owned by U.S. and foreign utilities and uranium producers.

Section 161(v) of the Atomic Energy Act provides that DOE, "to the extent necessary to assure the maintenance of a viable domestic uranium industry, shall not offer...(enrichment) services for source or special nuclear material of foreign origin intended for use in a utilization facility or under the jurisdiction of the U.S." DOE does not believe that its determinations that the uranium mining industry has not been viable in either 1984 or 1985, standing alone, either authorizes or requires imposing restrictions on the enrichment of feed material of foreign origin under Section 161(v). Instead, our interpretation of Section 161(v) indicates that DOE should continue its analysis by considering, in the words of the statute, "the extent" to which restricting enrichment of foreign source material for domestic end use will, in fact, "assure the maintenance of a viable domestic uranium industry."

RECLAMATION OF URANIUM MILL TAILINGS AT ACTIVE PROCESSING SITES

erns over the uncontrolled disposition of uranium mill tailings,
r potential for adverse public health and safety impacts, led to
age of Public Law 95-604, the Uranium Mill Tailings Radiation Con
of 1978. Title I of that Act directed the Department to carry ou
ropriate remedial actions for certain inactive, largely abandoned
ium processing sites. Title II assigned responsibility for the
mmissioning and stabilization of the licensed sites to the site o
r license with either the Nuclear Regulatory Commission (NRC) or
icable agreement State. The legislation also authorized the
ronmental Protection Agency (EPA) to establish standards for the
nup of the processing sites and the final disposal of the mill
ings.

Department recognizes that the cost associated with tailings
amation at the Title II sites remains an issue for many in the ura
stry. The Department has previously testified and continues to be
financial responsibility for the reclamation of Title II mining a
essing sites should continue to be borne by the owners as currentl
ided by Public Law 95-604. Further, DOE involvement in managing t
nup of Title II sites is not necessary and should be avoided; this
lify execution of the various projects and reduce costs. Since th
onsibility for selecting and performing remedial action at the
essing sites is strictly between the licensed owner and the NRC (o

nment) on the status of its Title I program and t
ur experience in carrying out its responsibilitie
604. In that testimony, we provided a preliminar
for reclamation of the sites covered by Title II
$4 billion if DOE's cost experience with the Tit
applicable. This preliminary estimate was made u
lation based on average reclamation costs per pou
he Federally-managed Title I program, which inclu
ilings have had to be moved to alternate location
d in place. Due to (1) economies of scale associ
larger quantities of tailings at Title II sites,
cate tailings piles as have been required for som
lamation cost per unit weight of tailings should
Taking this into account, as well as the savings
g the Federal Government responsible for project
e now estimate that the Title II reclamation effo
der of $1 to $2 billion. This estimate does not

inally, as requested in your letter of invitation, I will briefly ummarize the status of pending litigation involving the Department of nergy and certain uranium mining companies.

n December 7, 1984, a suit was filed in U.S. District Court for the istrict of Colorado by Western Nuclear, Inc., Energy Fuels Nuclear, In nd Uranium Resources, Inc., against DOE and various Departmental fficials, alleging 5 complaints:

> Count I. DOE failed to meet its statutory obligations contained in Section 161(v) of the Atomic Energy Act to assure the viability of domestic mining and milling industry by not limiting the amount of foreign-origin uranium that may be enriched for domestic end use. should be ordered to adopt limitations on domestic use of foreign uranium.
>
> Count II. DOE failed to follow proper procedures in promulgating t Utility Services (US) contracts, and it should thus be declared nul and void. Specifically, DOE failed to follow the Administrative Procedures Act and failed to submit the contract to Congress for 45 days prior to its issuance as required for criteria changes by t Atomic Energy Act.
>
> Count III. DOE uses a "fixed tails" policy in selling its services which limits the demand for domestic uranium. DOE should be barred from its continued use.
>
> Count IV. DOE is selling enriched uranium of foreign origin from i stockpiles. This inhibits and prevents the development of sources supply outside of DOE, a violation of Section 161(m) of the Atomic Energy Act. DOE should be precluded from selling out of inventory.
>
> Count V. DOE's Criteria and regulations defining "viability" for purposes of conducting the annual viability analysis required by la are incompatible with the statute and were adopted using incorrect procedures.

and declared the US contract null and void. DOE filed an appeal, w now pending before the U.S. Court of Appeals for the Tenth Circuit.

On June 5, 1986, oral arguments on the remaining counts were heard District Court. Following presentation of the arguments, Count I w decided in favor of the miners and the Court issued an injunction restricting DOE's enrichment of foreign origin uranium; Count III w stayed for a period of 90 days; Count IV was decided in favor of DO Count V was withdrawn without prejudice by the miners.

On June 24, 1986, DOE filed its notice of appeal of the District's ruling on Count I and requested a stay of the injunction previously by the Court pending appeal. The Tenth Circuit granted DOE's reque consolidated the appeal of Count I with the appeal of Count II. Or argument on both appeals was held before the U.S. Court of Appeals Tenth Circuit in September 1986, and a decision is pending.

In accordance with the FY 1987 Continuing Resolution, DOE will cont conduct its enrichment business pending the decision of the appella courts.

Mr. Chairman, this completes my statement. My colleagues and I wou pleased to respond to your questions at this time.

September 26, 1985

Honorable Clayton Yeutter
United States Trade Representative
600 - 17th Street, N.W.
Washington, D.C. 20506

Dear Mr. ~~Ambassador~~: Clay

Section 170B of the Atomic Energy Act of
U.S.C. 2210b, requires the Secretary of Energ
years 1983 to 1992 to report annually to the
and the President a determination of the viab
the domestic uranium mining and milling indus
Based on the criteria specified in the statut
implementing regulations, I have determined f
year 1984 that the domestic uranium mining an
industry was not viable.

Section 170B also authorizes me to make
determination that source material (natural u
special nuclear material (enriched uranium) f
foreign sources is being imported in such inc
quantities as to be a substantial cause of se
injury, or threat thereof, to the United Stat
mining and milling industry. Should I make t
determination, section 170B requires the U.S.
Representative to request that the U.S. Inter
Trade Commission initiate an investigation un
section 201 of the Trade Act of 1974.

Imports of uranium in 1984 represented 3
domestic requirements. Current import commit
future delivery of uranium make up no more th
32% of total annual U.S. requirements in any
However, a growing portion of currently-unfil
requirements is likely to be supplied by fore
uranium; the Energy Information Administratic
that imports will meet from 50 to 70% of requ
throughout the 1990's.

Because of its relationship to section 2
Trade Act, such a determination of injury or
thereof under section 170B of the Atomic Ener
could implicate complex issues of internation
The facts and implications pertaining to any

determin
within t
ities in
trade po

In
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The
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Please f
Mr. Edwa
this ass

nation should be carefully examined by agenc the Executive Branch whose major responsibil nclude formulating and implementing foreign olicy.

view of these considerations, I believe it e preferable for your office to examine this with a view to determining the appropriate le courses of action rather than my making t nation of injury from imports under section time. I would appreciate receiving your nary recommendations within three months.

e Department will be pleased to provide any nce it can as your office examines this matt feel free to contact Under Secretary Salgado ard Hanrahan of his staff, in order to secur sistance.

Yours truly,

John S. Herrington

ashington, D.C. 20585

ear John:

s a follow-up to your request of September 26 fo
f the situation of the domestic uranium min
ndustry, we have completed our review of the i
ble to provide you with preliminary recommendati

his is one of the more difficult questions we
ecent months. It involves, as many trade issu
chieve a delicate balance of domestic industry co
nterests, general economic policy, foreign,
rade policy concerns. Sometimes a policy optio
he course of analysis which arrives at a desi
eaves most parties at least relatively sat
utcome. Unfortunately, in this case, that seems

n reviewing the economic situation of the U.S. u
e drew on existing expertise within various
gencies, including your own Department. Also
nteragency working group were the Departmen
ommerce and the Office of Management and Budge
ith interested parties outside the Government
asis, and our preliminary conclusions were revie
olicy Staff Committee, which includes all ag
ith international trade. While our review focu
olicy aspects of the situation, it included all
nd thus our comments are framed within the broa
ranium issue.

ithout a doubt, the domestic uranium mining and
as severe economic problems, as you well kno
eview and viability determination. From the
970's production and employment have fallen to
owever, it would appear from our review that the
f this decline is the failure of demand to

of existing trade laws to help the U.S. industry and the trade policy implications of initiating action under these laws. The following is a summary of our preliminary assessment.

Section 201 of the Trade Act of 1974 is intended to provide temporary relief to domestic industries seriously injured, or threatened with serious injury, by increased imports. The relief provided (following an extensive investigation by the International Trade Commission and a review and decision by the President) is generally only for up to five years to allow the affected domestic industry time to adjust. There are two principal questions relative to this discussion: (1) Is self-initiation of Section 201 appropriate to the current situation? and (2) Should the special provisions of Section 170B of the Atomic Energy Act regarding self-initiation of a Section 201 investigation be invoked?

Regarding the first question, we would advise against self-initiation of a Section 201 investigation at this time for several reasons. First, it is unlikely that the International Trade Commission would find that the industry's problems are due more to imports than to any other single cause; significantly reduced demand appears to be the major factor. Second, since the industry's problems appear to be long term rather than temporary because of the fundamental comparative advantage of Canadian and Australian producers, we do not believe Section 201 is appropriate. Third, even if Section 201 relief were provided, it appears that its effects, while marginally improving the industry's position, would not be sufficient to make the domestic industry viable, especially in view of its limited duration and the substantial foreign advantage with respect to ore quality and production cost.

Regarding the second question, we would advise against your making a prior determination of the effect of imports on the domestic industry, even if self-initiation of a Section 201 investigation were appropriate, because of the complex legal issues which could result from a pre-investigation injury finding by an agency other than the ITC.

Section 232 of the Trade Expansion Act of 1962 provides relief where imports are found to be threatening our national security. Uranium for military uses is not an issue here, but only uranium for commercial electric generation. The principal source of imports is Canada, an immediate neighbor and a longtime stable ally. For this and other reasons, we do not believe it would be appropriate to self-initiate an investigation at this time.

We also examined the possibility of self-initiation of countervailing duty or antidumping investigations, based on various allegations of subsidies and dumping with regard to Canadian ports. From a preliminary and informal analysis of the available formation, we do not believe such actions would be effective or propriate. Our industry, of course, is free to file petitions its own if it believes such actions are a cause of material jury. However, we feel the allegations are not such as to rit the exceptional step of self-initiation since, even accepting e allegations at face value, the resulting duties would not be fficient to offset the cost advantage of Canadian producers.

th regard to the authority to restrict enrichment of foreign anium under Section 161(v) of the Atomic Energy Act, it appears at a major consequence would be the shift of enrichment activity om U.S. government facilities to foreign facilities, thereby oding the position of U.S. enrichment enterprises.

summary, action under the U.S. trade statutes does not appear be appropriate in regard to both the short and long-term oblems facing the domestic uranium mining and milling industry. oreover, any remedy granted under existing law which might ovide the extent of relief requested by the industry would only short term, while at the same time having an adverse impact on r trade and other relations with important trading partners thout resolving the long-term problems of the industry. For ample, we have just begun discussions with Canada on bilateral rade liberalization. Short-term actions adversely affecting nadian trade would therefore be ill-advised, particularly if ey did not lead to a permanent restoration of competitiveness r our industry. In addition, for any trade restriction not in esponse to a verified unfair trade practice, we would also owe ompensation to, or face retaliation by, our other trading rtners whose imports would be reduced. Thus, other sectors in e U.S. economy would be asked to make sacrifices for any short-erm import relief provided for the uranium industry.

r these reasons, I would advise against taking any action at is time to restrict uranium imports under existing law. I hope ese comments are responsive to your request. If you have any rther questions, please give me a call.

Sincerely,

Clayton

Clayton Yeutter

c: Ambassador Michael B. Smith
Ambassador Alan Woods

U.S. SENATE

MARCH 13, 1987

e to be here today to discuss the

security provide strong motivatio
ble, and economically competitive
United States. Nuclear power con
ctric power and is an important o
have an adequate and reliable sup
beyond. Further, domestic emplo
by a secure, reliable, and econo
f the threat of foreign supply di
ercial sales aid in the Nation's
to the Nation's nuclear nonproli
nt in the nuclear fuel cycle. Fi
jectives are supported by the av
ighly enriched uranium at reason
er defense programs.

avorable resolution of pending litigation that challenges the form the current Utilities Services contract and the "free trade" policy ch allows our domestic utility customers to obtain uranium feed ck for enrichment from most foreign sources.

act of the 1986 anti-apartheid legislation as to whether our foreign lity customers may send uranium ore or uranium oxide of South ican origin into the U.S. for processing (conversion, enrichment, fabrication) and subsequent re-export to the foreign utility.

ion of these issues, coupled with improvements in the flexibility hich the Government currently manages its uranium enrichment assets, nhance the value of the enterprise. Our primary objective is to e one of the key basic energy industries in the United States. We must resolve these challenges now because our failure to do so will result in the U.S. losing a secure, long-term domestic fuel supply.

enrichment enterprise is not competitive in today's international lace even though the current production costs at our gaseous on plants (GDPs) are low. Favorable resolution of these issues llow us to reduce our prices into the competitive range. If viewed etitive for the long-term, the United States could hold its current customers, and it could win back others.

DOE's APPROACH TO ENSURING LONG-TERM COMPETITIVENESS

arting point to assuring long-term competitiveness, there needs to nsensus reached with this Congress on the objectives of the

DOE's Recovery Strategy Is Wor

- Normalize Supply & Demand: (Phase I)

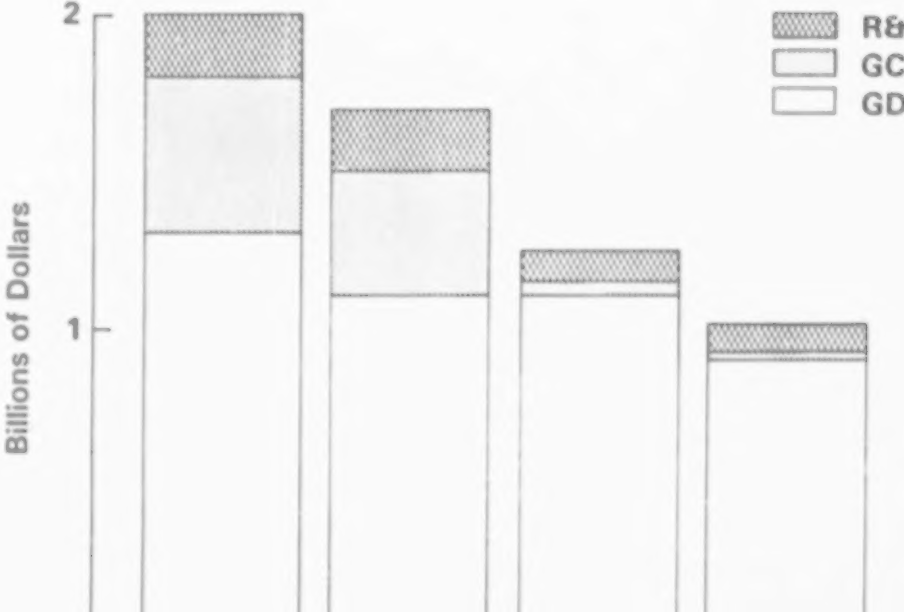
  To Stabilize Market

- Streamline Production & R&D Program

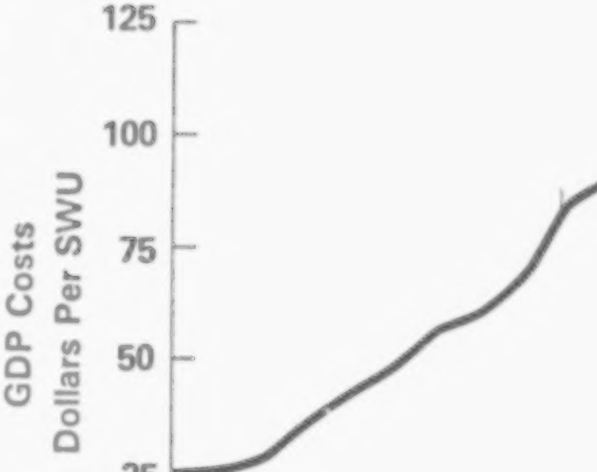
  To Reduce Costs

- Restructure Enterprise: (Phase III)

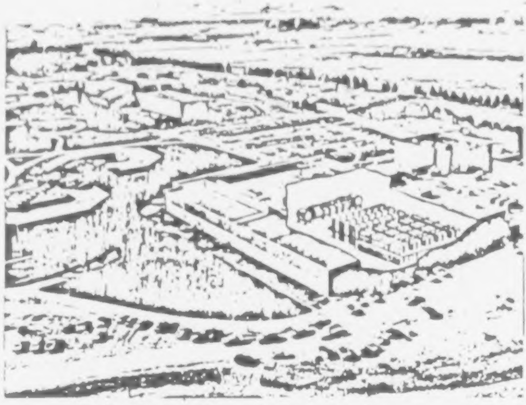
Costs Have Been Reduced by Nearly 50% Sinc

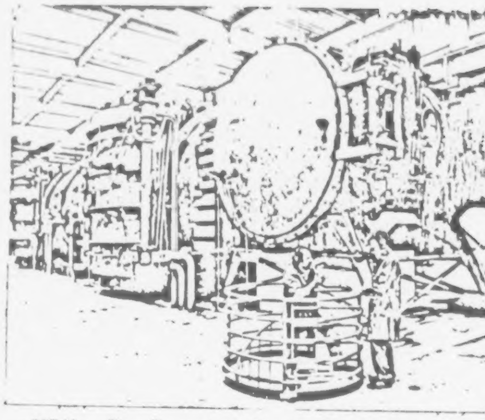


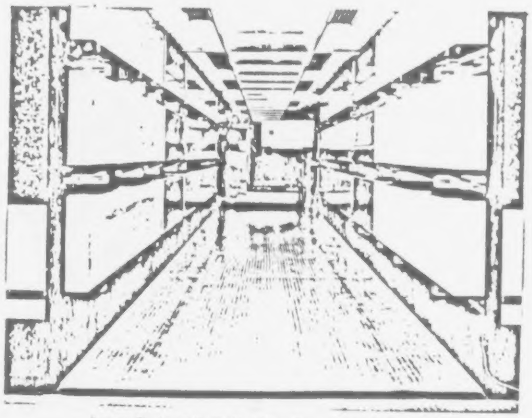
SWU Production Costs Are Droppi
Diffusion Technology Is Still Comp

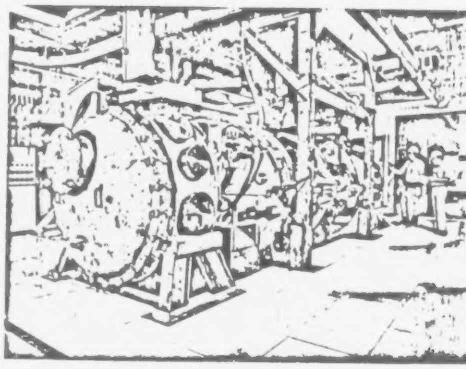

GDP Costs
Dollars Per SWU
125
100
75
50

AVLIS PROGRESS

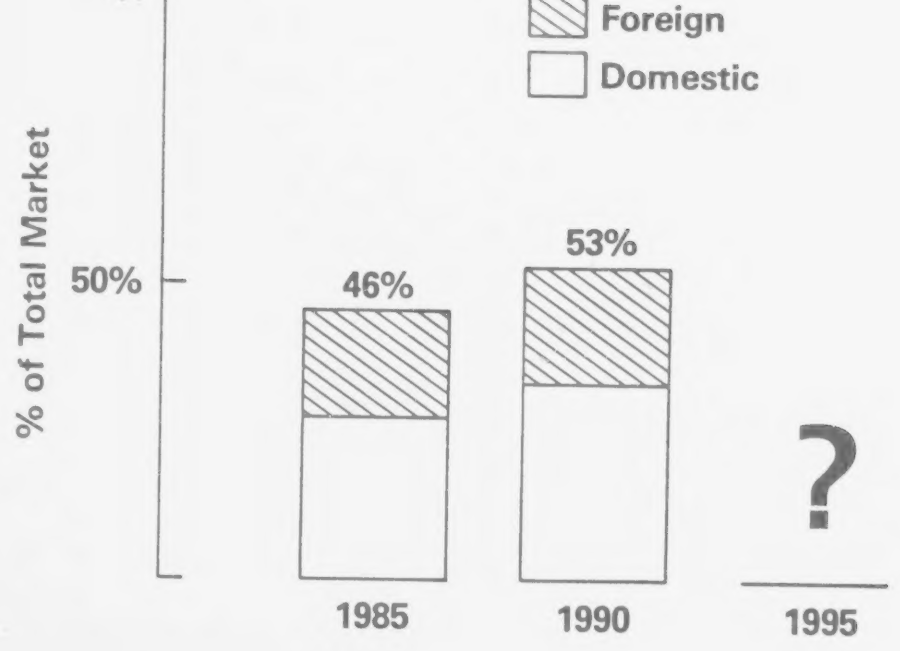

AVLIS Entering Engineering Demonstration Phase


100-Hour Runs Demonstrate Uranium Vaporizer at Full Scal

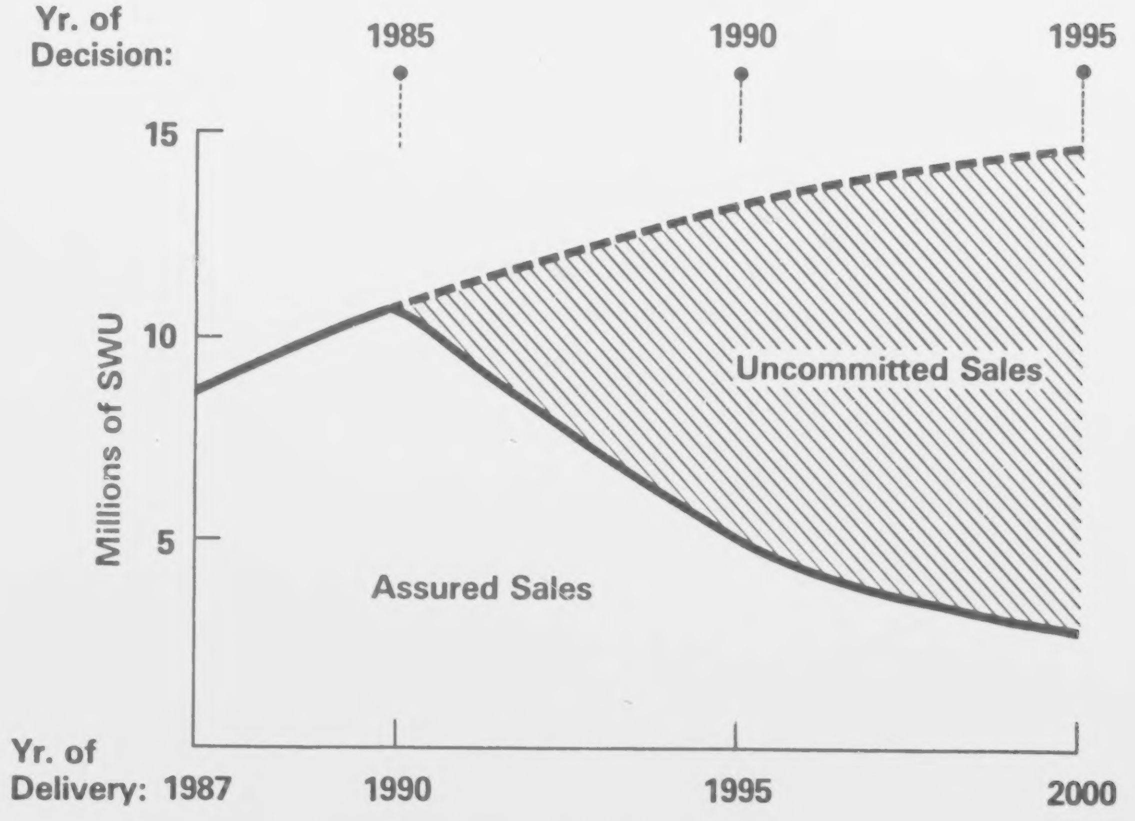

Laser Output & Reliability Increased Fourfold


SWU's Produced in Mars Prove Physics at Half Scale

DOE's Share of the Future World Market Is Uncerta



Post 1990 Market Exposure Requires Aggressive Action No



Mr. Chai
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STATEMENT OF
DR. A. DAVID ROSSIN
ASSISTANT SECRETARY FOR NUCLEAR ENERGY
U.S. DEPARTMENT OF ENERGY
BEFORE THE
SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT
COMMITTEE ON ENERGY AND NATURAL RESOURCES
U.S. SENATE

MAY 4, 1987

rman, it is a pleasure to be here today to discuss the U.S. uranium nt enterprise.

84, the Department of Energy (DOE) has been implementing a y strategy" to strengthen the competitive posture of the nium enrichment business by offering more competitive prices and contract terms, while adopting a more business-like approach to and development and retaining market share. This effort is based remise that the objective of the enterprise is to retain a lly strong enrichment capability in the U.S. to help meet important security and energy security objectives.

our success in improving our competitive position since 1984, it me increasingly difficult for DOE to manage the enterprise tly. Conflicting objectives, varied interpretations of the Atomic ct, and the interplay of competing special interests have each ted to the present environment within which basic business issues pricing, reinvestment, and reliability of service have become table. In foreign markets, a major factor that has enabled the dollar, a trend that could be reversed at any time.

Over the last year, the Department has evaluated a number of options f restructuring the uranium enrichment enterprise to resolve current prob and to put the business on a sound footing for the future. In Februar the Secretary forwarded a report to the Congress that described the ne obtain Congressional consensus regarding the structure, mission, goals objectives of the enterprise. Our primary motivation is to create an efficient, dynamic and competitive enrichment enterprise and thereby s to preserve one of the basic industries in the United States where we have a clear technological advantage.

ESTABLISHMENT OF A FEDERALLY-CHARTERED CORPORATION

On March 31, 1987, Secretary Herrington recommended that Congress estab a Federally-chartered corporation to manage and operate the U.S. urani enrichment enterprise, with eventual sale of the corporation's stock t public. "Maintaining a strong and economical domestic commercial uran enrichment enterprise," he said, "is vital to our energy security." H added, "Restructuring the enterprise into a corporation can enhance it efficiency and competitiveness and ensure its long-term ability to mee obligation to the nation."

Restructuring the U.S. uranium enrichment enterprise to enhance its competitiveness is needed now. Restructuring DOE's commercial enrichme uranium enrichment services within the United States to meet the needs and service requirements of domestic and foreign commercial customers. Restructuring will enable the business to capitalize on the low cost production base and the research and development lead that it now enjoys.

By restructuring, the Administration hopes to achieve the following important national goals:

- To preserve the existing enterprise (which is unlikely to be duplicated in the near-term by industry) and the capability for long-term continued worldwide competitiveness by the United States;
- To provide for the orderly transfer of uranium enrichment activities to the private sector with a high degree of certainty;
- To recover funds for the Federal Government at an early date; and,
- To enhance the climate for further private domestic competition in the United States.

The specific steps that will enable the new organization to achieve these national goals include:

- To allow the new enterprise to make realistic business judgements and conduct its operations without the operational and budgetary limitations presently imposed.
- To allow the enterprise to have the flexibility to obtain capital by selling securities including stocks and bonds, or by borrowing money, etc., as would any private corporation.
- To establish industrial management with experienced and competent personnel at all levels--along with appropriate incentives for performance.

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s not needed by the restructured DOE uranium enrichment e.

PROPOSED ORGANIZATIONAL CONCEPT

ration would be organized under enabling legislation by the as a stock-owned taxable business corporation.

ration would operate precisely like a private business except tially, the stock would be Government-owned. This would probably high degree of Government direction and oversight during an eriod. However, it would be desirable to have some private tion and direction from the outset.

orporation would not be an "instrumentality of the rnment." It would function entirely as a private corporation, he Government's equity ownership. Accordingly, it would be ry to change management and operating practices when ownership olly or partially to the private sector.

ration would be liable for Federal and state income taxes, ad axes, etc., just as any state chartered corporation. It is that some special income tax provisions might be made for the ring which the majority of the stock (or voting stock) is held by ment.

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rise to the corporation. This would include the Portsmouth a
h gaseous diffusion plants and ancillary facilities as well a
supply contracts, the inventories of uranium feed (with a spe
, about half of the present natural uranium stockpile, retain
meet U.S. defense needs), the stockpile of preproduced enric
t, as well as patents, know-how, licenses, and contracts. Th
erred facilities would not include the high enrichment cascad
outh (that would continue to be owned and operated by DOE, wh
purchase low enrichment feed from the corporation), or the Oa
s Diffusion Plant that is maintained in standby condition by
of Defense Programs. The Gas Centrifuge Enrichment Plant (G
ties at Portsmouth could be transferred as well or kept (and
arately, if feasible) by DOE.

DEVELOPMENT OF ENABLING LEGISLATION

s of the type being proposed by the Department will require t
e of enabling legislation. The Administration plans to submi
ed legislation to Congress in the near future. Legislation m
uired to address a number of important issues related to
entation. These include:

e possibility that the corporation will be unable to assume
sponsibility for the full TVA power contract in its present f
pect to be economically viable;

DOE's Report to Congress Identi
Several Restructuring Options

- Establish Revolving Fund; Provide Financing

- Establish Revolving Fund, Provide Financing
- Transfer Assets to Private Sector
- Create Government Corporation

Congress & Administration Need to Agree
Mission, Goals & Objectives

To allow the new enterprise to utilize internal cash flow or proce
from financing to develop advanced technologies that are essential
competitiveness in the future.

To allow the new enterprise to enter into joint ventures, form
subsidiaries, purchase patents and proprietary data, as well as bu
lease facilities, etc., generally on an international basis, as wo
be the case for any business enterprise.

these objectives are met, they would lead to a more efficient enric
terprise that would be able to respond to an increasingly competitiv
rld market for enrichment services. Such a restructured enrichment
terprise would be able to meet the growing competition from two majo
ropean consortia that operate internationally as private firms with
rong government backing. Such a restructured enterprise would be a
ofitable business venture, make appropriate returns to the U.S. taxp
y direct Treasury payments as well as future tax revenue) and would
ntribute to improvements in the Nation's balance of trade, the
hancement of national security and energy supply diversification and
ntinuation of substantive U.S. participation in worldwide nuclear fu
cle affairs, which is important in dealing with proliferation and ot
clear issues.

further goal would be to establish a "climate" that allows other pri
anium enrichment ventures to be formed in the United States and to
mpete freely. Such ventures might construct new facilities or purch

- The feasibility of transferring the present customer service co to the corporation;

- The continued development of the Atomic Vapor Laser Isotope Sep (AVLIS) technology until the need for further development can be evaluated by the corporation;

- The value of the enterprise to be recovered by the Government;

- The need and feasibility of Nuclear Regulatory Commission (NRC) licensing and regulation of existing as well as new enrichment facilities; and,

- The apportionment of eventual decontamination and decommissionin between the Government and the enrichment corporation.

We are confident that these issues can be successfully addressed in manner that will provide the enhanced stability and flexibility need the enterprise. The increased reliability and credibility of the ne corporation would better enable a strong domestic uranium enrichment enterprise to support domestic civilian nuclear power, contribute to favorable balance of trade, and retain a crucial technological edge other competitors.

We are eager to work with the Congress to achieve timely enactment o legislation.

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Natural Resources
d States Senate
ngton, D.C. 20510

Mr. Chairman:

I am writing to express the Administr
al items regarding the draft comprehe
ation which the Committee has indica
esented as the mark-up vehicle.

The growing difficulties besetting th
ment enterprise have made clear the
ping a comprehensive solution that w
term competitiveness of the enterpris
ent to national security interests.
tment that you and Senators Ford and
o the achievement of this objective,
to work with you in this effort.

The draft legislation under considera
addresses several key issues which m
t of any proposed solution. We reco
ttee has invested substantial time an
pment of this proposal and we are co
legislative solution can be achieved

lthough substantial progress has bee
ing key issues, we want to emphasize
of deep concern to the Department.
e need to transfer the enterprise to
hip and the need to avoid trade rest
tely essential that agreement be rea
before the Administration would be
t any legislation relative to uraniu

First, we continue to believe strongl
s of any effort to restore the healt
ment enterprise requires a system of

Institutional Restructuring Is Needed to Provide:

- **Stability**
- **Flexibility**
- **Reliability**
- **Credibility**
- **Accountability**

however, the enter
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Second, if th
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restrictions woul
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be substantial and
enterprise.

In addition t
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rprise will continue to fu
king the genuine capabilit
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forward to working with t
ration of provisions that
of the enterprise to priva
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he enterprise is to operat
estrictions which decrease
nterprise should be avoide
ndamental concerns about u
ained in the proposed legi
reatly concerned about the
ndustry, we do not believ
e appropriate way to addr
rictions could further di
erprise to compete in the
g the enrichment of forei
n the loss of a substanti
Further, the imposition
be fundamentally inconsi
ell established commitmen
the world market. Overa
f the proposed trade rest
could pose an unacceptab

o the concerns discussed
nt to address some other

- The Administration also opposes placing a Government corporation off-budget. Removing Government programs from budget coverage would compromise the integrity of the budget as the financial plan of the Federal Government. It would bypass the discipline of the overall budget process and undermine the base used in determining when to trigger Gramm-Rudman-Hollings.

Finally, we note that transfer of the enterprise to private ownership offers a resolution to another problem with the current bill. The current bill leaves the taxpayer with nearly the entire unrecovered investment. If the bill were to include provisions for selling the enterprise, the taxpayer would recoup the current value of the enterprise.

Again, we appreciate the effort that you and Senators Ford and Domenici have taken with respect to this matter. Substantial progress has been made on several critical issues and we are hopeful that action will be taken to address the concerns expressed here. Without additional progress in these areas we seriously question whether resulting legislation would be able to restore the health of the enrichment enterprise. We are eager to work with the Committee to revitalize the nuclear energy industry and look forward to further discussions toward achievement of this objective.

Yours truly,

John S. Herrington

John S. Herrington

cc: Honorable James A. McClure
Ranking Minority Member

ADDITIONAL VIEWS OF MR. DOMENICI

This bill includes a provision that would take the proposed United States Enrichment Corporation off-budget. This provision subjects this bill to a point of order under the Congressional Budget Act, which requires a 60 vote waiver on the Senate floor.

In 1967, the President's Commission on Budget Concepts issued a report that forms the foundation of our current budget system and still serves as a guide for the Office of Management and Budget (OMB) and the Congressional Budget Office (CBO). The Commission's chief criteria on whether a federal program or entity should be included in the budget totals was ownership. If the federal government owned a program or entity, the Commission recommended that it be carried on-budget.

Over the years, a number of programs were taken "off-budget", such as the strategic petroleum reserve, the Federal Financing Bank, and the Rural Electrification and Telephone Revolving Fund. The 1985 Gramm-Rudman-Hollings law brought all off-budget programs and entities on-budget with one specific exemption. Congress only granted off-budget status to the Social Security Trust Fund in that law.

Because the Gramm-Rudman-Hollings statute only applied to entities and programs that were specifically characterized as "off-budget", it did not catch certain government-owned corporations that are similar to the proposed Enrichment Corporation. Although the federal government effectively owns AMTRAK, for example, it continues to be excluded from the budget totals. However, CBO and OMB almost certainly would carry this government-owned corporation on-budget if proposed in legislation today.

I am deeply concerned about the dangerous precedent that would be established by *legislating* that the Enrichment Corporation would be off-budget. The proposed Enrichment Corporation would be 100 percent federally owned. While the bill contemplates that the Enrichment Corporation might eventually be privatized, it should be carried on-budget in the interim.

Taking the Enrichment Corporation off-budget would be another distortion of the federal government's accounting system. Instead of insuring the Corporation's autonomy, I am afraid it will only establish one more dangerous precedent for off-budget programs. Therefore, I will not support a waiver of a Budget Act point of order against this provision of the bill.

PETE V. DOMENICI.

MINORITY VIEWS OF MR. EVANS

The comprehensive uranium legislation that passed the Committee is a creative attempt to address the various problems facing the uranium mining, milling, and enrichment enterprises. The Committee considered similar legislation last year and passed S. 1004, sponsored by Senator Domenici, on September 20, 1986. The bill is similar in that it imposes domestic usage requirements on the fuel assemblies to be loaded in commercial power reactors, defines the unrecovered costs of the enrichment enterprise due to the federal government to be $364 million, and establishes a fund in the U.S. Treasury for the accelerated cleanup of active mill tailing sites.

The bill goes further than last year's bill by including a new title, Title III, to establish the United States Enrichment Corporation to manage the uranium enrichment activities of the federal government. If enacted, this would be the most fundamental reorientation of the government's enrichment enterprise since its inception about four decades ago. The primary stimulus for the restructuring of the enterprise is clearly the increasing competition from foreign enrichment companies. The Department of Energy is no longer the overwhelmingly dominant force in international markets as it was in the 1960's and 1970's.

In order to meet this competitive challenge, the Department has already taken a number of steps to modify its contracts and generally lower its prices to utility customers. These have been helpful, but not sufficient over the longer term. I agree that the restructuring of the enterprise is essential to maintain the viability of the Department's enrichment activities over the longer term. The general approach in the Committee bill is sound. I have specific concerns about the manner in which the Committee bill values the assets to be transferred to the new corporation and the manner in which dividend's from its earnings are repaid into the miscellaneous receipts of the U.S. Treasury. A prospective balance sheet for the new corporation was not prepared for the committee during its consideration of the bill, thus it is very difficult to ascertain the range of prices and earnings of the corporation. Care must be taken in this legislation to ensure against excesses at either end of the spectrum: charging utilities too high a price (increasing dividends to the U.S. Treasury); as well as charging too low a price (not recovering the full unrecovered costs).

I voted against the Committee's bill. The most troublesome part of the bill remains the import restrictions included in Title I. In 1986, the Committee-passed bill set the restrictions at a 50 percent level, with grandfathering provisions for current utility contracts; this year they have jumped to the 62.5 percent level, again with grandfather provisions. In addition, a provision was adopted in the committee to require a natural uranium equivalency in determining the percent of foreign uranium contained the fuel assemblies.

This makes the whole exercise of determining the amount of foreign-origin uranium ore in the fuel assembles more complex and, in the end, more favorable to the interests of the domestic mining industry.

Import restrictions will not solve the problems of the domestic mining and milling industry. The industry unquestionably went through a wrenching period over the past decade. Production and employment have fallen dramatically, while imports of cheaper, high-grade ore have increased. We must try to ascertain the cause and effect of this decline in production before rushing to impose import restrictions. The primary cause appears to be substantially reduced demand for uranium ore due to the cancellation of scores of nuclear powerplant orders by commercial utilities since the late 1970's. The mining industry enjoyed a boom in the 1970's, both the United States and abroad, as producers scrambled to meet the rapidly increasing demand for enriched uranium fuel. The Department of Energy signed contacts with the Tennessee Valley Authority (TVA) for increased amounts of firm energy to handle the need for more enriched uranium. In hindsight, they turned out to be colossal and costly mistakes by the management of these enterprises about the future market for enriched uranium.

These were business decisions made by actors in an increasingly competitive world market. In the meantime, the Three Mile Island accident occurred unexpectedly, causing a loss of public credibility in commercial nuclear power. Furthermore, the projections of demand for electric power made in the 1970's turned out to overstate seriously the demand for power in the subsequent ten or twenty year period. Hence the fundamental causes of the problems of the domestic mining industry are substantial worldwide overcapacity and reduced demand. Foreign producers, especially in Canada, are able to extract ore of high concentrations more cheaply and appear to have sufficient reserves to meet a portion of the demand of our domestic utilities over the foreseeable future.

The arbitrary exclusion of most foreign uranium for enrichment in our country, which would be the likely effect of Title I of the bill, will clearly not resolve these long-term competitive problems. The main effect of the increasingly severe penalties on foreign uranium in Title I will be to increase the price of uranium ore. An increase in price appears to be the main intent of this provision in the legislation, which would result in increased price of electric power to retail, commercial, and industrial consumers. Imported uranium still provides price competition in the domestic market. According to the Uranium Industry Annual, 1986 (Energy Information Administration), the average price of imported uranium in 1986 was $20.07 per pound of U308, while the average price of delivered uranium was still $30.01 per pound. Imported uranium still provides a necessary stimulus to price competition; without it, prices would rise substantially.

Proponents of this legislation cite the recent decision of the Court of Appeals for the Tenth Circuit, which upheld the District Court's opinion requiring the DOE to enrich only domestic-origin uranium. They argue that a 62.5 percent import level is a reasonable compromise between the current situation (where imports account for 35 to 40 percent of utility requirements) and a total ban on the use of foreign uranium. This is a specious argument. The legislation opens a tremendous loophole by allowing enriched uranium to enter the customs territory of the United States without any restriction. The restrictions contained in Title I apply to the percentage of foreign uranium to be enriched within the United States, which will be determined, administered, and enforced by the Secretary of Energy. Hence the import restrictions in Title I will endanger the viability of the new corporation established in Title III by encouraging utilities to cancel existing contracts with DOE (paying the termination charges) and transfer their contracts to enrichment corporations in Europe.

In attempting to control the market in such a complex field as this, therefore, one must be comprehensive in applying import restrictions if one is to succeed. As is often the case with import barriers, squeezing in one area usually means that private actors slip quietly into an unrestricted area. The restrictions are self-defeating, encourage abuse, and end up only raising prices to users of that product or service. Several remedies exist under current trade law for industries which allege injury from increased imports or from foreign subsidies, such as a Section 201 investigation or a countervailing duty petition. The industry has not availed itself of any of these prospective remedies. The industry appears to have consciously chosen to circumvent these laws and seek relief directly from the Congress. In our view, this is an inappropriate means by which to fashion our trade policy.

Furthermore, this provision directly contradicts the provisions in the free trade agreement between the United States and Canada that was announced on October 4, 1987 by President Reagan and Prime Minister Mulroney. The unimpeded flow of uranium ore from Canada into the United States is an essential element of the energy chapter of the agreement. The Canadian side agrees to remove its requirement that the conversion of uranium ore into uranium hexafluoride take place in Canada prior to exportation. Without it, the Canadian side would probably not have agreed to eliminate its restrictions on energy flows to the United States and allow unimpeded access to their resources. Implementing legislation will be submitted to the Congress in the next several months that will modify Section 161(v) of the Atomic Energy Act to accomplish this purpose. It would be contradictory and untimely for the Congress to act to restrict imports of Canadian ore prior to consideration of the implementing legislation.

I, along with Senator Bradley, offered an amendment in the committee which was defeated on a voice vote. The amendment is consistent with the Committee's bill in deleting Section 161(v) of the Atomic Energy Act of 1954, but it does not impose any restrictions on foreign uranium in the 1987 to 2000 period provided for in Title I. Instead, it attempts to answer the allegation that increased imports of foreign uranium for commercial electric power purposes are endangering our national security. Current law requires the Secretary of Commerce to carry out a Section 232 investigation if import commitments exceed 37.5 percent for two consecutive years.

Imports haven't reached such levels yet (according to the EIA, they were 39.2 percent in 1984 and 34.4 percent in 1985). The amendment waives that requirement and requires the Secretary to carry out such a study and report to Congress by July 1, 1988. I intend to offer the amendment when the bill reaches the floor of the Senate.

DANIEL J. EVANS.

Changes in Existing Law

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes the following changes in existing law made by the bill as reported (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law to which no change is proposed is shown in roman):

The Atomic Energy Act of 1954

An Act for the development and control of atomic energy.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

ATOMIC ENERGY ACT OF 1954

TITLE I—ATOMIC ENERGY

Chapter 1. Declaration, Findings, and Purpose

Sec. 1. Declaration.
Sec. 2. Findings.
Sec. 3. Purpose.

Chapter 2. Definitions

Sec. 11. Definitions.

Chapter 3. Organization

Sec. 23. Office.
Sec. 24. General Manager, Deputy and Assistant General Managers.
Sec. 25 Divisions, Offices and Positions.
Sec. 27. Military Liaison Committee.
Sec. 28. Appointment of Army, Navy, or Air Force Officers.
Sec. 29. Advisory Committee on Reactor Safeguards.

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CHAPTER 2. DEFINITIONS

Sec. 11. Definition.—The intent of Congress in the definitions as given in this section should be construed from the words or phrases used in the definitions. As used in this Act:

* * * * * * *

v. The term "production facility" means (1) any equipment or device determined by rule of the Commission to be capable of the production of special nuclear material in such quantity as to be of significance to the common defense and security, or in such manner as to affect the health and safety of the public; or (2) any important component part especially designed for such equipment or device as determined by the Commission; *Provided, however,* That as the term is used in Chapters 10 and 16 of this Act, other than with respect to import or export of a uranium enrichment production facility, it shall not include any equipment or device, or important component part especially designed therefor, capable of separating the isotopes of uranium or enriching uranium in the isotope 235.

CHAPTER 5. PRODUCTION OF SPECIAL NUCLEAR MATERIAL

Sec. 41. Ownership and Operation of Production Facilities.—
a. Ownership of production facilities.—The Commission, as agent of an on behalf of the United States, shall be the exclusive owner of all production facilities other than facilities which (1) are useful in the conduct of research and development activities in the fields specified in section 31, and do not, in the opinion of the Commission, have a potential production rate adequate to enable the user of such facilities to produce within a reasonable period of time a sufficient quantity of special nuclear material to produce an atomic weapon; [or] (2) are licensed by the Commission pursuant to [section 103 or 104] *this title; or (3) are owned by the United States Enrichment Corporation.*

* * * * * * *

Sec. 53. Domestic Distribution of Special Nuclear Material.
a. The Commission is authorized (i) to issue to transfer or receive in interstate commerce, transfer, deliver, acquire, possess, own, receive possession of or title to, import, or export under the terms of an agreement for cooperation arranged pursuant to section 123, special nuclear material, (ii) to make special nuclear material available for the period of the license, and (iii) to distribute special nuclear material within the United States to qualified applicants requesting such material—

(1) for the conduct of research and development activities of the types specified in section 31;

(2) for use in the conduct of research and development activities or in medical therapy under a license issued pursuant to section 104;

(3) for use under a license issued pursuant to section 103;

(4) for such other uses as the Commission determines to be appropriate to carry out the purposes of this Act.

b. The Commission shall establish, by rule, minimum criteria for the issuance of specific or general licenses for the distinction of special nuclear material depending upon the degree of importance to the common defense and security or to the health and safety of the public of—

(1) the physical characteristics of the special nuclear material to be distributed;

(2) the quantities of special nuclear material to be distributed; and

(3) the intended use of the special nuclear material to be distributed.

c. (1) The Commission may distribute special nuclear material licensed under this section by sale, lease, lease with option to buy, *or* grant, [or through the provision of production or enrichment services;] *Provided, however,* That unless otherwise authorized by law, the Commission shall not alter after December 31, 1970; distribute special nuclear material except by safe [or through the provision of production or enrichment services] to any person who possesses or operates a utilization facility under a license issued pursuant to section 103 or 104 b. for use in the course of activities under such license; nor shall the Commission permit any such person after June 30, 1973, to continue leasing for use in the course of such activities special nuclear material previously leased to such person by the Commission.

* * * * * * *

CHAPTER 14. GENERAL AUTHORITY

SEC. 161. GENERAL PROVISIONS.—In the performance of its functions the Commission is authorized to—

a. establish advisory boards to advise with and make recommendations to the Commission on legislation, policies, administration, research, and other matters, provided that the Commission issues regulations setting forth the scope, procedure, and limitations of the authority of each such board;

b. establish by rule, regulation, or order, such standards and instructions to govern the possession and use of special nuclear material, source material, and byproduct material as the Commission may deem necessary or desirable to promote the common defense and security or to protect health or to minimize danger to life or property[.]*; in addition, the Commission shall prescribe such regulations or orders as may be necessary or desirable to promote the nation's common defense and security with regard to control, ownership or possession of any equipment or device, or important component part especially designed therefor, capable of separating the isotopes of uranium or enriching uranium in the isotope 235;*

* * * * * * *

[v. (A) enter into contracts with persons licensed under sections 53, 63, 103 or 104 for such periods of time as the Commission may deem necessary or desirable to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Commission; and

(B) enter into contracts to provide, after December 31, 1968, for the producing or enriching of special nuclear material in facilities owned by the Commission in accordance with and within the period of an agreement for cooperation arranged pursuant to section 123 while comparable services are made available pursuant to paragraph (A) of this subsection:

Provided, That (i) prices for services under paragraph (A) of this subsection shall be established on a nondiscriminatory basis; (ii) prices for services under paragraph (B) of this subsection shall be no less than prices under paragraph (A) of this subsection; and (iii) any prices established under this subsection shall be on a basis of recovery of the Government's costs over a reasonable period of time: *And provided further,* That the Commission, to the extent necessary to assure that maintenance of a viable domestic uranium industry, shall not offer such services for source or special nuclear materials of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States. The Commission shall establish criteria in writing setting forth the terms and conditions under which services provided under this subsection shall be made available including the extent to which such services will be made available for source or special nuclear material of foreign origin intended for use in a utilization facility within or under the jurisdiction of the United States: *Provided,* That before the Commission establishes such criteria, the proposed criteria shall be submitted to the Joint Committee, and a period of forty-five days shall elapse while Congress is in session (in computing the forty-five days there shall be excluded the days in which either House is not in session because of adjournment for more than three days) unless the Joint Committee by resolution in writing waives the conditions of, or all or any portion of, such forty-five-day period.**]**

[w.**]** *v.* prescribe and collect from any other Government agency, which applies for or is issued a license for a utilization facility designed to produce electrical or heat energy pursuant to section 103 or 104 b., any fee, charge, or price which it may require, in accordance with the provisions of section 483 a. of title 31 of the United States Code or any other law, of applicants for, or holders of, such licenses.

[x.**]** *w.* Establish by rule, regulation, or order, after public notice, and in accordance with the requirements of section 181 of this Act, such standards and instructions as the Commission may deem necessary or desirable to ensure, *for the share of costs for which the licensee is responsible*—

(1) that an adequate bond, surety, or other arrangement (as determined by the Commission) will be provided, before termination of any license for byproduct material as defined in section 11 e. (2), by a licensee to permit the completion of all requirements established by the Commission for the decontamination, decommissioning, and reclamation of sites, structures, and equipment used in conjunction with byproduct material as so defined, and

(2) that—

(A) in the case of any such license issued or renewed after the date of the enactment of this subsection, the need for long-term maintenance and monitoring of such sites, structures and equipment of termination of such license will be minimized, and, to the maximum extend practicable, eliminated; and

(B) in the case of each license for such material (whether in effect on the date of the enactment of this section or issued or renewed thereafter), if the Commission determines that any such long-term maintenance and monitoring is necessary, the licensee, before termination of any license for byproduct material is defined in section 11 e. (2), will make available such bonding, surety, or other financial arrangements as may be necessary to assure such long-term maintenance and monitoring.

Such standards and instructions promulgated by the Commission pursuant to this subsection shall take into account, as determined by the Commission, so as to avoid unnecessary duplication and expense, performance bonds or other financial arrangements which are required by other Federal agencies or State agencies and/or other local governing bodies for such decommissioning, decontamination, and reclamation and long-term maintenance and monitoring except that nothing in this paragraph shall be construed to require that the Commission accept such bonds or arrangements if the Commission determines that such bonds or arrangements are not adequate to carry out subparagraphs (1) and (2) of this subsection.

* * * * * * *

SEC. 170B. URANIUM SUPPLY.—

a. The Secretary of Energy shall monitor and for the years **[**1983**]** *2000* to **[**1992**]** *2011* report annually to the Congress and to the President a determination of the viability of the domestic uranium mining and milling industry and shall establish by rule, after public notice and in accordance with the requirements of section 181 of this Act, within 9 months of enactment of this section, specific criteria which shall be assessed in the annual reports on the domestic uranium industry's viability. The Secretary of Energy is authorized to issue regulations providing for the collection of such information as the Secretary of Energy deems necessary to carry out the monitoring and reporting requirements of this section.

b. Upon a satisfactory showing to the Secretary of Energy by any person that any information, or portion thereof obtained under this section, would, if made public, divulge proprietary information of such person, the Secretary shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18, United States Code.

c. The criteria referred to in subsection a. shall also include, but not be limited to—

(1) an assessment of whether executed contracts or options for source material or special nuclear material will result in greater than 37½ percent of actual or projected domestic uranium requirements for any two-consecutive-year period being supplied by source material or special nuclear material from foreign sources;

(2) projections of uranium requirements and inventories of domestic utilities for a 10 year period;

(3) present and probable future use of the domestic market by foreign imports;

(4) whether domestic economic reserves can supply all future needs for a future 10 year period;

(5) present and projected domestic uranium exploration expenditures and plans;

(6) present and projected employment and capital investment in the uranium industry;

(7) the level of domestic uranium production capacity sufficient to meet projected domestic nuclear power needs for a 10 year period; and

(8) a projection of domestic uranium production and uranium price levels which will be in effect under various assumptions with respect to imports.

d. The Secretary or [1] Energy, at any time, may determine on the basis of the monitoring and annual reports required under this section that source material or special nuclear material from foreign sources is being imported in such increased quantities as to be a substantial cause of serious injury, or threat thereof, to the United States uranium mining and milling industry. Based on that determination, the United States Trade Representative shall request that the United States International Trade Commission initiate an investigation under section 201 of the Trade Act of 1974 (19 U.S.C. 2251).

e. (1) If, during the period [1982] *2000* to [1992,] *2011,* the Secretary of Energy determines that executed contracts or options for source material or special nuclear material from foreign sources for use in utilization facilities within or under the jurisdiction of the United States represent greater than 37½ percent of actual or projected domestic uranium requirements for any two-consecutive-year period, or if the Secretary of Energy determines the level of contracts or options involving source material and special nuclear material from foreign sources may threaten to impair the national security, the Secretary of Energy shall request the Secretary of Commerce to initiate under section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) an investigation to determine the effects on the national security of imports of source material and special nuclear material. The Secretary of Energy shall cooperate fully with the Secretary of Commerce in carrying out such an investigation and shall make available to the Secretary of Commerce the findings that lead to this request and such other information that will assist the Secretary of Commerce in the conduct of the investigation.

(2) The Secretary of Commerce shall, in the conduct of any investigation requested by the Secretary of Energy pursuant to this section, take into account any information made available by the Secretary of Energy, including information regarding the impact on national security of projected or executed contracts or options for source material or special nuclear material from foreign sources or whether domestic production capacity is sufficient to supply projected national security requirements.

(3) No sooner than 3 years following completion of any investigation by the Secretary of Commerce under paragraph (1), if no recommendation has been made pursuant to such study for trade adjustments to assist or protect domestic uranium production, the Secretary of Energy may initiate a request for another such investigation by the Secretary of Commerce.

* * * * * * *

CHAPTER 18. ENFORCEMENT

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SEC. 236. SABOTAGE OF NUCLEAR FACILITIES OR FUEL.—

a. Any person who intentionally and willfully destroys or causes physical damage to, or who intentionally and willfully attempts to destroy or cause physical damage to—

(1) any production facility or utilization facility licensed under this Act;

(2) any nuclear waste storage facility licensed under this Act; [or]

(3) any nuclear fuel for such a utilization facility, or any spent nuclear fuel from such a facility; *or (4) any uranium enrichment facility licensed by the Commission;* shall be fined not more than $10,000 or imprisoned for not more than ten years, or both.

* * * * * * *

TITLE II—UNITED STATES ENRICHMENT CORPORATION

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CHAPTER 21. FINDINGS

SEC. 1101. FINDINGS.—The Congress of the United States finds that:

(a) The enrichment of uranium is essential to the national security and energy security of the United States.

(b) A competitive, well-managed and efficient enrichment enterprise provides important economic benefits to the United

States and contributes to a highly favorable foreign trade balance.

(c) A strong United States enrichment enterprise promotes U.S. nonproliferation policies by requiring accountability for U.S.-enriched uranium.

(d) The operation of uranium enrichment facilities must meet high standards for environmental health and safety.

(e) The operation and management of a uranium enrichment enterprise requires a commercial business orientation in order to engender customer support and confidence, and customers, rather than the taxpayers at large, should bear the costs of uranium enrichment services.

(f) The optimal level of expenditures for the uranium enrichment enterprise fluctuates and cannot be accurately predicted or efficiently financed if subject to annual authorization and appropriation.

(g) Flexibility is essential to adapt business operations to a competitive marketplace.

(h) The events of the recent past, including the emergence of foreign competition, have brought new and unforeseen forces to bear upon the management and operation of the government's uranium enrichment enterprise.

(i) The present operation of the uranium enrichment enterprise must be changed so as to further the national interest in the enterprise and respond to the competitive demand placed upon it by market forces, while continuing to meet the paramount objective of ensuring the nation's common defense and security.

CHAPTER 22. DEFINITIONS, ESTABLISHMENT OF CORPORATION, AND PURPOSES

SEC. 1201. DEFINITIONS.—For the purpose of this title:

(a) The term "Secretary" means the Secretary of Energy.

(b) The term "Department" means the Department of Energy of the United States.

(c) The term "Administrator" means the chief executive officer of the United States Enrichment Corporation.

(d) The term "Corporation" means the United States Enrichment Corporation.

(e) The term "Advisory Board" means the appointed members of the official advisory panel appointed by the Secretary pursuant to section 1503 of this title.

(f) The term "uranium enrichment" means the separation of uranium of a given isotopic content into two components, one having a higher percentage of a fissile isotope and one having a lower percentage.

SEC. 1202. ESTABLISHMENT OF THE CORPORATION.—

(a) There is hereby created a body corporate to be known as the "United States Enrichment Corporation."

(b) The Corporation shall:

(1) be established as a wholly-owned government corporation subject to the Government Corporation Control Act, as amended

(31 U.S.C. section 9101–9109), except as otherwise provided herein; and

(2) be an agency and instrumentality of the United States.

SEC. 1203. PURPOSES.—The Corporation is created for the following purposes:

(1) to acquire feed material for uranium enrichment, enriched uranium and the Department's uranium enrichment and related facilities;

(2) to operate, and as required by business conditions, to expand or construct facilities for uranium enrichment or both;

(3) to market and sell enriched uranium and uranium enrichment and related services to:

(A) the Department for governmental purposes; and

(B) qualified domestic and foreign persons;

(4) to conduct research and development for purposes of identifying, evaluating, improving and testing processes for uranium enrichment;

(5) to operate, as a continuing, commercial enterprise, on a profitable and efficient basis;

(6) to maintain a reliable and economical domestic source of enrichment services;

(7) to conduct its activities in a manner consistent with the health and safety of the public and the common defense and security (including consideration of United States policies concerning nonproliferation of atomic weapons and other nonpeaceful uses of atomic energy); and

(8) to take all other lawful action in furtherance of the foregoing purposes.

CHAPTER 23. CORPORATE OFFICES

SEC. 1301. CORPORATE OFFICES.—The Corporation shall maintain an office for the service of process and papers in the District of Columbia, and shall be deemed, for purposes of venue in civil actions, to be a resident thereof. The Corporation may establish offices in such other place or places as it may deem necessary or appropriate in the conduct of its business.

CHAPTER 24. POWERS AND DUTIES OF THE CORPORATION

SEC. 1401. SPECIFIC CORPORATE POWERS AND DUTIES.—The Corporation:

(a) Shall perform uranium enrichment or provide for such enrichment to be performed by others at facilities of the Corporation. The Corporation shall continue in effect contracts in existence as of the date of the enactment of this section between the Department and persons currently under contract to perform uranium enrichment at facilities of the Department.

(b) Shall conduct, or provide for the conduct of, research and development activities related to the isotopic separation of uranium as the Corporation deems necessary or advisable for purposes of maintaining the Corporation as a continuing, commercial enterprise operating on a profitable and efficient basis.

(c) May acquire or distribute enriched uranium, feed material for uranium enrichment or depleted uranium in transactions with:

(1) persons licensed under sections 53, 63, 103, or 104 of title I in accordance with the licenses held by such persons;

(2) persons in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I; or

(3) as otherwise authorized by law.

(d) May, to the extent consistent with section 120 of the Uranium Revitalization, Tailings Reclamation and Enrichment Act of 1987:

(1) enter into contracts with persons licensed under section 53, 63, 193, or 104 of title I for such periods of time as the Corporation may deem necessary or desirable, to provide uranium or uranium enrichment and related services; and

(2) enter into contracts to provide uranium or uranium enrichment and related services in accordance with, and within the period of, an agreement for cooperation arranged pursuant to section 123 of title I or as otherwise authorized by law; provided, That comparable services are made available pursuant to paragraph (1).

(e) Shall sell to the Department as provided in this title, and without regard to the provisions of 31 U.S.C. 1535, such amounts of uranium or uranium enrichment and related services as the Department may determine for time to time are required: (1) for the Department to carry out Presidential direction and authorizations pursuant to section 91 of title I; and (2) for the conduct of other Department programs.

(f) May grant licenses, both exclusive and nonexclusive, for the use of patents and patent applications owned by the Corporation, and establish and collect charges, in the form of royalties or otherwise, for utilization of Corporation-owned facilities, equipment, patents, and technical information of a proprietary nature pertaining to the Corporation's activities.

Sec. 1402. General Powers of the Corporation.—In order to accomplish the purposes of this title, the Corporation:

(a) Shall have perpetual succession unless dissolved by Act of Congress.

(b) May adopt, later, and use a corporate seal, which shall be judicially noticed.

(c) May sue and be sued in its corporate name and be represented by its own attorneys in all judicial and administrative proceedings.

(d) May indemnify the Administrator, officers, attorneys, agents and employees of the Corporation for liabilities and expenses incurred in connection with their corporate activities.

(e) May adopt, amend, and repeal bylaws, rules and regulations governing the manner in which its business may be conducted and the power granted to it by law may be exercised and enjoyed.

(f)(1) May acquire, purchase, lease, and hold real and personal property, including patents and proprietary data, as it deems necessary in the transaction of its business, and sell, lease,

grant, and dispose of such real and personal property, as it deems necessary to effectuate the purposes of this title and without regard to the Federal Property and the Administrative Services Act of 1949, as amended.

(2) Purchases, contracts for the construction, maintenance, or management and operation of facilities and contracts for supplies or services, except personal services, made by the Corporation shall be made after advertising, in such manner and at such times sufficiently in advance of opening bids, as the Corporation shall determine to be adequate to insure notice and an opportunity for competition: Provided, That advertising shall not be required when the Corporation determines that the making of any such purchase or contract without advertising is necessary in the interest of furthering the purposes of this title, or that advertising is not reasonably practicable.

(g) With the consent of the agency or government concerned, may utilize or employ the services or personnel of any Federal Government agency or, any State or local government, or voluntary or uncompensated personnel to perform such functions on its behalf as may appear desirable.

(h) May enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in the conduct of its business and on such terms as it may deem appropriate, with any agency or instrumentality of the United States, or with any state, territory or possession, or with any political subdivision thereof, or with any person, firm, association, or corporation.

(i) May determine the character of and the necessity for its obligations and expenditures, and the manner in which they shall be incurred, allowed, and paid, subject to the provisions of this title and other provisions of law specifically applicable to wholly-owned Government corporations.

(j) Notwithstanding any other provision of law, and without need for further appropriation, may use monies, unexpended appropriations, revenues and receipts from operations, amounts received from obligations issued and other assets of the Corporation in accordance with section 1505, without fiscal year limitation, for the payment of expenses and other obligations incurred by the Corporation in carrying out its functions under, and within the requirements of, this title; and shall not be subject to apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

(k) May settle and adjust claims held by the Corporation against other persons or parties and claims by other persons or parties against the Corporation.

(l) May exercise, in the name of the United States, the power of eminent domain for the furtherance of the official purposes of the Corporation.

(m) Shall have the priority of the United States with respect to the payment of debts out of bankrupt, insolvent, and decedents' estates.

(n) May define appropriate information as "Government Commercial Information" and exempt such information from mandatory release pursuant to 5 U.S.C. 552(b)(3) when it is deter-

mined by the Administrator that such information if publicly released would harm the Corporation's legitimate commercial interests.

(o) May request, and the Administrator of General Services, when requested, shall furnish the Corporation such services as he is authorized to provide agencies of the United States.

(p) May accept gifts or donations of servics, or of property, real, personal, mixed, tangible or intangible, in aid of any purposes herein authorized.

(q) May execute, in accordance with its bylaws, rules and regulations, all instruments necessary and appropriate in the exercise of any of its powers.

SEC. 1403. CONTINUATION OF CONTRACTS, ORDERS, PROCEEDINGS AND REGLATIONS.—(a) Except as provided elsewhere in this title, all contracts, agreements, and leases with the Department, and licenses, and privileges that have been afforded to the Department prior to the date of the enactment of this title and that relate to uranium enrichment, including all enrichment services contracts and power purchase contracts, shall continue in effect as if the Corporation had executed such contracts, agreements, or leases or had been afforded such licenses and privileges.

(b) As related to the functions vested in the Corporation by this title, all orders, determinations, rules, regulations and privileges of the Department shall continue in effect and remain applicable to the Corporation until modified, terminated, superseded, set aside or revoked by the Corporation, by any court of competent jurisdiction, or by operation of law unless otherwise specifically provided in this title: Provided, however, That Department orders, rules and regulations affecting health, environment and nuclear safety shall continue in effect and remain applicable to the Corporation until modified, terminated, superseded or set aside by the Secretary.

(c) Except as provided elsewhere in this title, the transfer of functions related to and vested in the Corporation by this title shall not affect proceedings, judicial or otherwise, relating to such functions which are pending at the time this title takes effect, and such proceedings shall be continued with the Corporation, as appropriate.

SEC. 1404. CERTAIN PENDING LITIGATION.—(a) As soon as practicable after the date of the enactment of this title, the Corporation shall pay to the Tennessee Valley Authority (hereinafter referred to as "TVA") the total principal amount of $1.3 billion, with interest on the unpaid balance for the date of such enactment computed at an annual rate of a 9 per centum.

(b) Upon receipt by TVA of the payment made under subsection (a) and in consideration for such payment, the obligations of the Department and the Corporation to pay capacity charges to TVA for capacity in excess of 100 megawatts per year under Contract No. DE-AC05-760R03760, TV-30613A, as amended, and to pay capacity charges under Contract No. DE-AC05-760R03761, TV-30614A, as amended, and any other obligation of the Department to TVA that are the subject of the litigation currently pending in Tennessee Valley Authority v. The United States of America, Claims Court No. 513-87 C, United States claims court, shall be deemed fully satisfied and no longer in dispute by both TVA and the Department; Provided, however, That nothing in this title shall affect the authority of

the Department or the Corporaiton to contract with TVA for the supply of electric power or to agree with TVA to modify the provisions of any existing contract between the Department and TVA to supply electric power to facilities of the Department or the Corporation, including, but not limited to, facilities at Oak Ridge, Tennessee.

(c) The Corporation may enter into or continue any contract in accordance with the provisions of this title without regard to any judgment in the proceeding pending before the United States Court of appeals for the Tenth Circuit in Docket No. 85-2428, concerning the procedure followed by the Department in setting the terms of certain enrichment services contracts.

SEC. 1405. LIABILITIES.—Except as provided elsewhere in this title, all liabilities attributable to operation of the uranium enrichment enterprise prior to the date of the enactment of this title shall remain direct liabilities of the Government of the United States.

CHAPTER 25. ORGANIZATION, FINANCE AND MANAGEMENT

SEC. 1501. ADMINISTRATOR.—(a) The management of the Corporation shall be vested in an Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation. The Administrator shall be a person who, by reason of professional background and experience, is specially qualified to manage the Corporation; Provided, however, That upon enactment of this title, the Secretary shall appoint an existing officer or employee of the United States to act as Administrator until the office is filled.

(b) The Administrator:

(1) Shall be the chief executive officer of the Corporation and shall be responsible for the management and direction of the Corporation. The Administrator shall establish the offices, appoint the officers and employees of the Corporation (including attorneys), and define their responsibilities and duties. The Administrator shall appoint officers and employees as may be required to conduct the Corporation's business.

(2) Shall serve a term of six years but may be reappointed.

(3) Shall, before taking office, take an oath to faithfully discharge the duties thereof.

(4) Shall have compensation determined by the Secretary, except that compensation shall not exceed Executive Level I, as prescribed in 5 U.S.C. 5312.

(5) Shall be a citizen of the United States.

(6) Shall designate an officer of the Corporation who shall be vested with the authority to act in the capacity of the Administrator in the event of absence or incapacity.

(7) May be removed from office only by the President and only for neglect of duty or malfeasance in office. The President shall communicate the reasons for any such removal to both Houses of Congress at least 30 days prior to the effective date of such removal.

(c)(1) The Secretary shall exercise general supervision over the Administrator only with respect to the activities of the Corporation involving—

(A) the Nation's common defense and security;

(B) health, safety and the environment; and

(C) the need for indemnification with respect to hazardous nuclear activities.

(2) The Administrator shall be solely responsible for the exercise of all powers and responsibilities that are committed to the Administrator under this title and that are not ennumerated under paragraph (1), and, notwithstanding the provisions of 31 U.S.C. 9104(a)(4), including the setting of the appropriate amount of, and paying, any dividend under section 1506(c) and all other fiscal matters.

SEC. 1502. DELEGATION.—The Administrator may delegate, to other officers or employees, powers and duties assigned to the Corporation in order to achieve the purposes of this title.

SEC. 1503. ADVISORY BOARD.—There is hereby established an Advisory Board appointed by the Secretary, which shall consist of five members, one of whom shall be designated as chairman. Members of the Advisory Board shall be individuals possessing high integrity, demonstrated accomplishment and broad experience in management and shall have strong backgrounds in science, engineering, business or finance. At least one member of the Advisory Board shall be, or previously have been, employed on a full-time basis in managing an electric utility.

(a) The specific responsibilities of the Advisory Board shall be to:

(1) review the Corporation's policies and performance and advise the Secretary and the Administrator on these matters; and

(2) advise the Secretary or the Administrator on any other such matters concerning the Corporation as either may refer to the Advisory Board.

(b) Except for initial appointments, members of the Advisory Board shall serve five-year terms. Each member of the Advisory Board shall be a citizen of the United States. No more than three members of the Board shall be members of any one political party. Of those first appointed, the chairman shall serve for the full five-year term; one member shall serve for a term of four years; one shall serve for a term of three years; one shall serve for a term of two years; and one shall serve for a term of one year.

(c) Upon expiration of the initial term, each Advisory Board member appointed thereafter shall serve a term of five years. Upon the occurrence of a vacancy on the Board, the Secretary shall appoint an individual to fill such vacancy for the remainder of the applicable term. Upon expiration of a term, a Board member may continue to serve up to a maximum of one year or until a successor shall have been appointed and assumed office, whichever occurs first.

(d) The members of the Advisory Board in executing their duties shall be governed by the laws and regulations regarding conflicts of interest, but exempted from other provisions and authority prescribed by the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2).

(e) The Advisory Board shall meet at any time pursuant to the call of the Chairman and as provided by the bylaws of the Corporation, but not less than quarterly.

(f) The Corporation shall compensate members of the Advisory Board at a per diem rate equivalent to Executive Level III, as defined in 5 U.S.C. section 5314, in addition to reimbursement of reasonable expenses incurred when engaged in the performance of duties vested in the Advisory Board. Any Advisory Board member who is otherwise a Federal employee shall not be eligible for compensation above reimbursement for reasonable expenses incurred while attending official meetings of the Corporation.

(g)(1) The Advisory Board shall report at least annually to the Secretary and to the Administrator on the performance of the Corporation and the issues that, in the opinion of the Board, require the attention of the Secretary or the attention of the Administrator, or both. Any such report shall include such recommendations as the Board finds appropriate. A copy of any report under this subsection shall be transmitted promptly to the Committee on Energy and Natural Resources of the Senate and to the Speaker of the House of Representatives.

(2) Within 90 days after the receipt of any report under this subsection the Secretary or the Administrator, as the case may be, shall respond in writing to such report and provide an analysis of such recommendation of the Board contained in the report. Such response shall include plans for implementation of each recommendation or a statement of the reasons why that recommendation will not be implemented.

SEC. 1504. EMPLOYEES OF THE CORPORATION.—Officers and employees of the Corporation shall be officers and employees of the United States.

(a) The Administrator shall appoint all officers, employees, and agents of the Corporation as are deemed necessary to effect the provisions of this title without regard to any administratively imposed limits on personnel, and any such officer, employee or agent shall only be subject to the supervision of the Administrator. The Administrator shall fix all compensation in accordance with the comparable pay provisions of 5 U.S.C. 5301, with compensation levels not to exceed Executive Level II, as defined in 5 U.S.C. 5313. The Administrator shall define the duties of all officers and employees and provide a system of organization inclusive of a personnel management system to fix responsibilities and promote efficiency. The Corporation shall assure that the personnel function and organization is consistent with the principles of 5 U.S.C. 2301(b) relating to merit system principles. Officers and employees of the Corporation shall be appointed, promoted and assigned on the basis of merit and fitness, and other personnel actions shall be consistent with the principles of fairness and due process but without regard to those provisions of title 5 of the United States Code governing appointments and other personnel actions in the competitive service.

(b) Any Federal employee hired before January 1, 1984, who transfers to the Corporation and who on the day before the date of transfer is subject to the Federal Civil Service Retirement System (Subchapter III of Chapter 83 of title 5, United States Code) shall remain within the coverage of such system unless he or she elects to be subject to the Federal Employees' Retirement System. For those employees remaining in the Federal Civil Service retirement system, the Corporation shall withhold pay and shall pay into the Civil

Service Retirement and Disability Fund the amounts specified in Chapter 83 of title 5, United States Code. Employment by the Corporation without a break in continuity of service shall be considered to be employment by the United States Government for purposes of Subchapter III of Chapter 83 of title 5, United States Code. Any employee of the Corporation who is not within the coverage of the Federal Civil Service Retirement System shall be subject to the Federal Employees' Retirement System (Chapter 84 of title 5, United States Code). The Corporation shall withhold pay and make such payments as are required under that retirement system. Further:

(1) Any employee who transfers to the Corporation under this section shall not be entitled to lump sum payments for unused annual leave under 5 U.S.C. 5551, but shall be credited by the Corporation with the unused annual leave at the time of transfer.

(2) An employee who does not transfer to the Corporation and who does not otherwise remain a Federal employee shall be entitled to all the rights and benefits available under Federal law for separated employees, except that severance pay shall not be payable to an employee who does not accept an offer of employment from the Corporation of work substantially similar to that performed by that employee for the Department.

(c) This section does not affect a right or remedy of an officer, employee, or applicant for employment under a law prohibiting discrimination in employment in the Government on the basis of race, color, religion, age, sex, national origin, political affiliation, marital status, or handicap condition.

(d) Officers and employees of the Corporation shall be covered by Chapter 73 of title 5, United States Code, relating to suitability, security and conduct.

(e) Compensation, benefits, and other terms and conditions of employment in effect immediately prior to the effective date of this section, whether provided by statute or by rules and regulations of the Department or the executive branch of the Government of the United States shall continue to apply to officers and employees who transfer to the Corporation from other Federal employment until changed by the Corporation or Congress in accordance with the provisions of this title.

(f) The provisions of sections 3323(a) and 8344 of title 5, United States Code, or any other law prohibiting or limiting the reemployment of retired officers or employees or the simultaneous receipt of compensation and retired pay or annuities, shall not apply to officers and employees of the Corporation who have retired from or ceased previous government service prior to April 28, 1987.

SEC. 1505. TRANSFER OF PROPERTY TO THE CORPORATION.—In order to enable the Corporation to exercise the powers and duties vested in it by this title—

(a) The Secretary, in consultation with the Administrator, is authorized and directed to transfer without charge to the Corporaton all of the Department's right, title, or interest in and to, real or personal properties owned by the Department, or by the United States but under control or custody of the Department, which are related to and materially useful in the per-

formance of the functions transferred by this title, including but not limited to the following:

(1) production facilities for uranium enrichment inclusive of real estate, buildings and other improvements at production sites and their related and supporting equipment: Provided, That facilities, real estate, improvements and equipment related to the Oak Ridge K-25 plant in Oak Ridge, Tennessee, and to the gas centrifuge enrichment program shall not transfer under this subsection;

(2) facilities, equipment, and materials for research and development activities related to the isotopic separation of uranium by the gaseous diffusion technology;

(3) the Department's stocks of preproduced enriched uranium;

(4) the Department's stocks of feed materials for uranium enrichment except for such quantities as are currently allocated to national defense activities of the Department;

(5) all other facilities, equipment, materials (including depleted uranium and materials in process), processes, patents, technical information of any kind, contracts, agreements, and leases to the extent these items concern the Corporations functions and activities, except those items required for programs and activities of the Department and those items specifically excluded by this subsection.

(b) The Secretary is authorized and directed to grant to the Corporation without charge the Department's rights and access to the atomic vapor laser isotope separation, hereinafter referred to as "AVLIS," technology and to provide on a reimbursable basis and at the request of the Corporation, the necessary cooperation and support of the Department to assure the commercial development and deployment of AVLIS or other technologies in a manner consistent with the intent of this title.

(c) The Secretary is authorized and directed to grant the Corporation without charge, to the extent necessary or appropriate for the conduct of the Corporation's activities, licenses to practice or have practiced any inventions or discoveries (whether patented or unpatented), together with the right to use or have used any processes and technical information owned or controlled by the Department.

(d) The Secretary is directed, without need of further appropriation, to transfer to the Corporation the unexpended balance of appropriations, and other monies available to the Department (inclusive of funds set aside for accounts payable), and accounts receivable which relate to functions and activities acquired by the Corporation from the Department pursuant to this title, including all advance payments.

(e) The President is authorized to provide for the transfer to the Corporation of the use, possession, and control of such other real and personal property of the United States which is reasonably related to the functions performed by the Corporation. Such transfers may be made by the President without charge as he may from time to time deem necessary and proper for achieving the purposes of this title.

Sec. 1506. C*APITAL* S*TRUCTURE OF THE* C*ORPORATION*.—*(a) Upon commencement of operations of the Corporation:*

(1) all liabilities then chargeable to unexpended balances of appropriations transferred under section 1505 shall become liabilities of the Corporation; and

(2) with respect to all assets transferred to the Corporation under section 1505, the Corporation shall use the book value of such assets as shown in the Uranium Enrichment Annual Report for FY 1986, modified to reflect continued depreciation and other usual changes that occur up to the date of transfer.

(b) At such time that decontamination or decommissioning, or both, of property or equipment transferred in accordance with section 1505 of this title may be necessary, the Corporation and the Department shall share the burden of such costs based on the ratio of the separative work that has been produced under the ownership of each party and that is attributable to the property or equipment being decontaminated or decommissioned or both.

(c) The Corporation shall pay into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law, dividends from earnings of the Corporation when, in the opinion of the Administrator, such earnings are not otherwise needed to be applied in furtherance of other corporate functions, including but not limited to research and development, capital investments and establishment of cash reserves.

(d) The Corporation shall repay within a 20-year period the amount of $364 million into miscellaneous receipts of the Treasury of the United States, or such other fund as provided by law, with interest on the unpaid balance from the date of enactment of this title at a rate equal to the average yield on 20-year government obligations as determined by the Secretary of the Tresury on the date of enactment of this title. The money required to be repaid under this subsection, hereinafter referred to as "Initial Debt," is hereby determined to constitute the sole recovery by the United States of previously unrecovered costs that:

(1) have been incurred by the United States (including the Department) for uranium enrichment activities prior to Fiscal Year 1987 of the United States; and

(2) are to be recovered by the Corporation from its customers in its charges for products, materials, and services.

*S*EC. *1507.* B*ORROWING*.—*(a)(1) The Corporation is authorized to issue and sell bonds, notes, and other evidences of indebtedness (hereinafter collectively referred to as "bonds") in an amount not exceeding $2,500,000,000 outstanding at any one time to assist in financing its activities and to refund such bonds. The principal of and interest on said bonds shall be payable from revenues of the Corporation.*

(2) Notwithstanding any other violations of law, the Corporation may pledge and use its revenues for payment of the principal of and interest on said bonds, for purchase or redemption thereof, and for other purposes incidental thereto, including creation of reserve funds and other funds which may be similarly pledged and used, to such extent and in such manner as it may deem necessary or desirable.

(3) Notwithstanding any other provision of law, the Corporation is authorized to enter into binding covenants with the holders of said bonds—and with the trustee, if any—under any indenture, resolution, or other agreement entered into the connection with the issuance thereof with respect to the establishment of reserve funds and other funds, stipulations concerning the subsequent issuance of bonds, and such other matters, not inconsistent with this title, as the Corporation may deem necessary or desirable to enhance the marketability of said bonds.

(4) Bonds issued by the Corporation hereunder shall not be obligations of, nor shall payment of the principal thereof or interest be guaranteed by, the United States.

(b) Bonds issued by the Corporations under this section shall be negotiable instruments unless otherwise specified therein, shall be in such forms and denominations, shall be sold at such times and in such amounts, shall mature at such time or times not more than thirty years form their repective dates, shall be sold at such prices, shall bear such rates of interest, may be redeemable before maturity at the option of the Corporation in such manner and at such times and redemption premiums, may be entitled to such priorities of claims on the Corporation's revenues with respect to principal and interest payments, and shall be subject to such other terms and conditions, as the Corporation may determine: Provided, That at least fifteen days before selling each issue of bonds hereunder (exclusive of any commitment shorter than one year) the Corporation shall advise the Secretary of the Treasury as to the amount, proposed date of sale, maturities, terms and conditions and expected rates of interest of the proposed issue in the fullest detail possible. The Corporation shall not be subject to the provisions of section 9108 of title 31, United States Code. The Corporation shall be deemed part of an executive department or an independent establishment of the United States for purpose of the provisions of 15 U.S.C. 78c(c).

(c) Bonds issued by the Corporation hereunder shall be lawful investments and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the authority or control of any officer or agency of the United States. The Secretary of the Treasury or any other officer or agency having authority over or control of any such fiduciary, trust, or public funds, may at any time sell any of the bonds of the Corporation acquired by them under this section: Provided, That the Corporation shall not issue or sell any bonds to the Federal Financing Bank.

SEC. 1508. PRICING.—To the extent permitted by prevailing business conditions, the Corporation shall establish prices and charges for its products, materials and services that in the opinion of the Corporation will over the long term: (1) recover the costs of performing and maintaining corporate functions, including but not limited to research and development, depreciation of assets, and repayment of the Initial Debt and other obligations of the Corporation; and (2) generate profits consistent with the maintenance of the Corporation as a continuing, commercial enterprise and other purposes of this title: Provided, That the Corporation in setting prices and charges for products, materials and services provided to the Department shall recover on a yearly basis its costs of providing such products, *materials or services, without regard to prevailing business conditions and without generation of profit. Prices and other contractual terms for the provision of products, materials, or services by the Corporation shall be established without regard to the provisions of the Administrative Procedure Act, as amended.*

SEC. 1509. AUDITS.—In fiscal years during which an audit is not performed by the Comptroller General in accordance with the provisions of 31 U.S.C. 9105, the financial transactions of the Corporation shall be audited by an independent firm or firms of nationally recognized certified public accountants who shall prepare such audits using standards appropriate for commercial corporate transactions. The fiscal year of the Corporation shall conform to the fiscal year of the United States. The General Accounting Office shall review such audits annually, and to the extent necessary, cause there to be a further examination of the Corporation using standards for commercial corporate transactions. Such audits shall be conducted at the place or places where the accounts of the Corporation are established and maintained. All books, financial records, reports, files, papers, memoranda, and other property of, or in use by, the Corporation shall be made available to the person or persons authorized to conduct audits in accordance with the provisions of this section.

SEC. 1510. REPORTS.—(a) The Corporation shall prepare an annual report of its activities. This report shall contain:

(1) a general description of the Corporation's operations;

(2) a summary of the Corporation's operating and financial performance; and

(3) copies of audit reports prepared in conformance with section 1509 of this title and the provisions of the Government Corporation Control Act, as amended.

(b) A copy of the annual report shall be provided to the President, the Secretary, the Committee on Energy and Natural Resources of the Senate, and the appropriate committees of the House of Representatives. Such reports shall be completed not later than 90 days following the close of each fiscal year and shall accurately reflect the financial position of the Corporation at fiscal year end, inclusive of any impairment of capital or ability of the Corporation to comply with the provisions of this title.

SEC. 1511. CONTROL OF INFORMATION.—(a) The term "Commission" shall be deemed to include the Corporation wherever such term appears in section 141 and subsections a. and b. of section 142 of title I.

(b) No contracts or arrangements shall be made, nor any contract continued in effect, under sections 1401, 1402, 1403 or 1404, unless the person with whom such contract or arrangement is made, or the contractor or prospective contractor, agrees in writing not to permit any individual to have access to Restricted Data, as defined in section 11y. of title I, until the Office of Personnel Management shall have made an investigation and report to the Corporation on the character, associations, and loyalty of such individual, and the Corporation shall have determined that permitting such person to have access to Restricted Data will not endanger the common defense and security.

(c) The restrictions detailed in subsections b., c., d., e., f., g., and h. of section 145 of title I shall be deemed to apply to the Corporation where they refer to the Commission or a majority of the members of the Commission, and to the Administrator where they refer to the General Manager.

(d) The Administrator shall keep the appropriate congressional committees fully and currently informed with respect to all of the Corporation's activities. To the extent consistent with the other provisions of this section, the Corporation shall make available to any of such committees all books, financial records, reports, files, papers, memoranda or other information possessed by the Corporation upon receiving a request for such information from the chairman of such committee.

(e) Whenever the Corporation submits to the Secretary, the President, or the Office of Management and Budget, any budget, legislative recommendation, testimony, or comments on legislation, prepared for submission to the Congress, the Corporation shall concurrently transmit a copy thereof to the appropriate committees of Congress.

(f) The Corporation shall have no power to control or restrict the dissemination of information other than as granted by this or any other law.

Sec. 1512. Patents and Inventions.—(a) The term "Commission" shall be deemed to include the Corporation wherever such term appears in sections 152, 153b.(1), and 158 of title I. The Corporation shall pay such royalty fees for patients licensed to it under section 153b.(1) of title I as are paid by the Department under that provision. Nothing in title I or this title shall affect the right of the Corporation to require that patents granted on inventions, that have been conceived or first reduced to practice during the course of research or operations of, or financed by the Corporation, be assigned to the Corporation.

(b) The Department shall notify the Corporation of all reports heretofore or hereafter filed with it under subsection 151c. of title I and all applications for patents heretofore or hereafter filed with the Commissioner of Patents of which the Department has notice under subsection 151d. of title I or otherwise, whenever such reports or applications involve matters pertaining to the functions or responsibilities of the Corporation in accordance with this title. The Department shall make all such reports available to the Corporation, and the Commissioner of Patents shall provide the Corporation access to all such applications. All reports and applications to which access is so provided shall be kept in confidence by the Corporation, and no information concerning the same given without authority of the inventor or owner unless necessary to carry out the provisions of any Act of Congress.

(c) The Corporation, without regard for any of the conditions specified in paragraphs 153c.(1), (2), (3), or (4) of title I, may at any time make application to the Department for a patent license for the use of an invention or discovery useful in the production or utilization of special nuclear material or atomic energy covered by a patent when such patent has not been declared to be affected with the public interest under subsection 153b.(1) of title I and when use of such patent is within the Corporation's authority. Any such applica-

tion shall constitute an application under subsection 153c. of title I subject, except as specified above, to all of the provisions of subsections 153c., d., e., f., g., and h. of title I.

(d) With respect to the Corporation's functions under this title, section 158 of title I shall be deemed to include the Corporation within the phrase, "any other licensee of the Department" in the first sentence thereof and within the phrase "such licensee" in the second sentence thereof.

(e) The Corporation shall not be liable directly or indirectly for any damages or financial responsibility with respect to secrecy orders imposed under 35 U.S.C. 181 through 187.

(f) The Corporation shall not be liable or responsible for any payments made or awards under subsection 157b.(3) of title I, or any settlements or judgments involving claims for alleged patent infringement except to the extent that any such awards, settlements or judgments are attributable to activities of the Corporation after the effective date of this title.

(g) The Corporation shall keep currently informed as to matters affecting its rights and responsibilities under Chapter 13 of title I as modified by this section and shall take all appropriate action to avail itself of such rights and satisfy such responsibilities. The Department in discharging its responsibilities under Chapter 13 of title I shall exercise diligence in informing the Corporation of matters affecting the responsibilities and jurisdiction of the Corporation and seeking and following as appropriate the advice and recommendation of the Corporation in such matters.

CHAPTER 26. LICENSING, TAXATION AND MISCELLANEOUS PROVISIONS

SEC. 1601. LICENSING.—Licensing of enrichment production facilities shall be subject to the provisions contained within this section.

(a) Notwithstanding any other provision of law, with respect solely to facilities, equipment and materials for activities related to the isotopic separation of uranium by the gaseous diffusion technology at facilities in existence as of the date of the enactment of this title, the Corporation and its contractors are hereby exempted from the licensing requirements and prohibitions of sections 57, 62, 81, 101 and other provisions of title I, to the same extent as the Department and its contractors are exempt in regard to the Department's own functions and activities.

(b) The Corporation shall not transfer or deliver any source, special nuclear or byproduct materials or production or utilization facilities, as defined in title I, to any person who is not properly qualified or licensed under provisions of title I.

(c) The Corporation shall be subject to the regulatory jurisdiction of the Nuclear Regulatory Commission and the Department of Transportation with respect to the packaging and transportation of course, special nuclear and byproducts materials.

SEC. 1602. EXEMPTION FROM TAXATION AND PAYMENTS IN LIEU OF TAXES.—(a) Notwithstanding any other provision of law, including 26 U.S.C. 501, the Corporation shall be exempt from Federal income taxation.

(b) In order to render financial assistance to those states and localities in which the facilities of the corporation are located, the

corporation is authorized and directed to make payments to state and local governments as provided in this section. Such payments shall be in lieu of any and all taxes on the real and personal property, activities and income of the Corporation. All property of the Corporation, its activities and income are expressly exempted from taxation in any manner or form by any state, county, or other local government entity. The activities of the Corporation for this purpose shall include the activities of organizations pursuant to cost-type contracts with the Corporation to manage, operate, and maintain its facilities. The income of the Corporation shall include income received by such organizations for the account of the Corporation. The income of the Corporation shall not include income received by such organizations for their own accounts, and such income shall not be exempt from taxation.

(c) The Corporation shall make annual payments, in amounts determined by the corporation to be fair and reasonable, to the state and local governmental agencies having tax jurisdiction in any area where facilities of the Corporation are located. In making such determinations, the Corporation shall be guided by the following criteria:

(1) Amounts paid shall not exceed the tax payments that would be made by a private industrial corporation owning similar facilities and engaged in similar activities at the same location: Provided, however, That there shall be excluded any amount that would be payable as a tax on net income.

(2) The Corporation shall take into account the customs and practices prevailing in the area with respect to appraisal, assessment, and classification of industrial property and any special considerations extended to large-scale industrial operations.

(3) No amount shall be included to the extent that any tax unfairly discriminates against the class of taxpayers of which the Corporation would be a member if it were a private industrial corporation, compared with other taxpayers or classes of taxpayers.

(4) In no event shall the payment made to any taxing authority for any period be less than the payments which would have been made to such taxing authority for the same period by the Department and its cost-type contractors on behalf of the Department with respect to property that has been transferred to the Corporation under section 1505 and which would have been attributable to the ownership, management, operation, and maintenance of the Department's uranium enrichment facilities, applying the laws and policies prevailing immediately prior to the enactment of this title.

(d) Payments shall be made by the Corporation at the time when payments of taxes by taxpayers to each taxing authority are due and payable: Provided, That no payment shall be made to the extent that the tax would apply to a period prior to the enactment of this title.

(e) The determination by the Corporation of the amounts due hereunder shall be final and conclusive.

SEC. 1603. MISCELLANEOUS APPLICABILITY OF THE ATOMIC ENERGY ACT.—(a) Any references to the term "Commission" or to the Department in sections 105b., 110a., 161c., 161k., 161q., 165, *221a., 229, 230, 232 of title I shall be deemed to include the Corporation.*

(b) section 188 of title I shall apply to licensed facilities of the Corporation. For purposes of applying such section to facilities of the Corporation:

(1) the term "Commission" shall be deemed to refer to the Secretary;

(2) there shall be no requirement for payment of just compensation to the Corporation, and receipts from operations of the facility in question shall continue to accrue to the benefit of the Corporation; and

(3) the Secretary shall have the discretion to determine how and by whom the facility in question will be operated.

SEC. 1604. COOPERATION WITH OTHER AGENCIES.—The Corporation is empowered to use with their consent the available services, equipment, personnel, and facilities of other civilian or military agencies and instrumentalities of the Federal Government, on a reimbursable basis and on a similar basis to cooperate with such other agencies and instrumentalities in the establishment and use of services, equipment, and facilities of the Corporation. Further, the Corporation may confer with and avail itself of the cooperation, services, records, and facilities of state, territorial, municipal, or other local agencies.

SEC. 1605. APPLICABILITY OF ANTITRUST LAWS.—(a) The Corporation shall conduct its activities in a manner consistent with the policies expressed in the antitrust laws, except as required by the public interest.

(b) As used in this subsection, the term "antitrust laws" means—

(1) the Act entitled "An Act to protect trade and commerce against unlawful restraints and monopolies", approved July 2, 1890 (15 U.S.C. 1-7), as amended;

(2) the Act entitled "An Act to supplement existing laws against unlawful restraints and monopolies, and for other purposes", approved October 15, 1914 (15 U.S.C. 12-27), as amended;

(3) sections 73 and 74 of the Act entitled "An Act to reduce taxation, to provide revenue for the Government, and for other purposes", approved August 27, 1894 (15 U.S.C. 8 and 9), as amended; and

(4) the Act of June 19, 1936, chapter 592 (15 U.S.C. 13, 13a, 13b, and 21a).

SEC. 1606. RELATIONSHIP TO FEDERAL BUDGET.—Notwithstanding any other provision of law, receipts, revenues, disbursements, budget authority and outlays of the Corporation for a fiscal year shall not be included in total budget authority, total budget outlays and total revenues or in the amounts of budget authority and outlays set forth for each major functional category for such fiscal year in either the budget of the United States Government submitted by the President pursuant to section 1105 of title 31, United States Code, or in the budget adopted by Congress pursuant to title III of the Congressional Budget and Impoundment Control Act of 1974, as amended. Neither shall such receipts, revenues, disbursements, budget authority or outlays be used in calculating the Federal deficit for purposes of comparison with the maximum deficit amount under the Balanced

Budget and Emergency Deficit Control Act of 1985: Provided, That nothing in this section shall affect the treatment for budgetary purposes of payments made by the Corporation to the United States Treasury or funds appropriated to the Corporation after the date of the enactment of this title.

SEC. 1607. INTENT.—It is hereby declared to be the intent of this title to aid the United States Enrichment Corporation in discharging its responsibilities under this title by providing it with adequate authority and administrative flexibility to obtain necessary funds with which to assure the maximum achievement of the purposes hereof as provided herein, and this title shall be construed liberally to effectuate such intent.

SEC. 1608. REPORT.—(a) No earlier than January 1, 1993, but no later than December 31, 1998, the Administrator shall submit to the President and to Congress a report setting forth the views and recommendations of the Administrator regarding transfer of the functions, powers, duties and assets of the Corporation to private ownership. If the Administrator recommends such transfers, the report shall include a plan for implementation of the transfers.

(b) Within one hundred and eighty days after receipt of the report under subsection (a), the President shall transmit the Congress his recommendations regarding the report, including a plan for implementation of any transfers recommended by the President and any recommendations for legislation necessary to effectuate such transfers.

* * * * * * *

BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL ACT OF 1985

[Public Law 99-177]

§ 905. Exempt programs and activities

(a) Social security benefits and tier I railroad retirement benefits

Increases in benefits payable under the old-age, survivors, and disability insurance program established under title II of the Social Security Act [42 U.S.C.A. § 401 et seq.], or in benefits payable under section 3(a), 3(f)(3), or 4(f) of the Railroad Retirement Act of 1954 [45 U.S.C.A. § § 231b(a), 231(f)(3), 231c(a), and 231e(f)], shall not be considered "automatic spending increases" for purposes of this title; and no reduction in any such increase or in any of the benefits involved shall be made under any order issued under this subchapter.

(b) Veterans programs

The following programs shall be exempt from reduction under any order issued under this subchapter:

Veterans' compensation (36-0153-0-1-701); and
Veterans' pensions (36-0154-0-1-701).

(c) Net interest

Not reduction of payments for net interest (all of major functional category 900) shall be made under any order issued under this subchapter.

(d) Earned income tax credit

Payments to individuals made pursuant to section 32 of the Internal Revenue Code of 1954 [26 U.S.C.A. § 32] shall be exempt from reduction under any order issued under this subchapter.

(e) Offsetting receipts and collections

Offsetting receipts and collections shall not be reduced under any order issued under this subchapter.

(f) Certain program based

Outlays for programs specified in paragraph (1) of section 907 of this title shall be subject to reduction only in accordance with the procedures established in section 901(a)(3)(C) and 906(b) of this title.

(g) Other programs and activities

(1) The following budget accounts and activities shall be exempt from reduction under any order issued under this subchapter:

Activities resulting from private donations, bequests, or voluntary contributions to the Government;

Alaska Power Administration, Operations and maintanence (89-0304-0-1-271);

Appropriations for the District of Columbia (to the extent they are appropriations of locally raised funds);

Bonneville Power Administration fund and borrowing authority established pursuant to section 13 of Public Law 93-454 (1974), as amended (89-4045-0-3-271);

Bureau of Indian Affairs miscellaneous trust funds, tribal trust funds (14-9973-0-7-999);

Claims, defense (97-0102-0-1-051)

Claims, judgments, and relief acts (20-1895-0-1-806);

Coinage profit fund (20-5811-0-2-803);

Compensation of the President (11-0001-0-1-802);

Eastern Indian land claims settlement fund (14-2202-0-1-806);

Exchange stabilization fund (20-4444-0-3-155);

Federal payment to the railroad retirement account (60-0113-0-1-601);

Foreign military sales trust fund (11-8242-0-7-155);

Health professions graduate student loan insurance fund (Health Education Assistance Loan Program) (75-4305-0-553);

Intagovermental funds, including those from which the oulays are derived primarily from resources paid in from other government accounts, except to the extent such funds are augmented by direct appropriations for the fiscal year during which an order is in effect;

Payment of Vietnam and USS Pueblo prisoner-of-war claims (15-0104-0-1-153);

Payment to civil service retirement and disability fund (24-0200-0-1-805);

Payment to copyright owners (03-5175-0-2-376);

Payment to health care trust funds (75-0580-0-1-572);

Payments to military retirement fund (98-0040-0-1-054);

Payments to social security trust funds (75-0404-0-1-571);

Payments to state and local government fiscal assistance trust fund (20-2111-0-1-851);

Payments to the foreign service retirement and disability fund (11-1036-0-1-153 and 19-0540-0-1-153);

Payments to trust funds from excise taxes or other receipts properly creditable to such trust funds;

Postal service fund (18-4020-0-3-372);

Salaries of Article III judges;

Soldiers and Airmen's Home, payment of claims (84-8930-0-7-705);

Southeastern Power Administration, Operations and maintenance (89-0302-0-1-271);

Southwestern Power Administration, Operations and maintenace (89-0303-0-1-271);

Tennessee Valley Authority fund, except non-power programs and activities (64-4110-0-3-999);

Western Area Power Administration, Construction rehabilitation, operations, and maintenance (89-5068-0-2-271); and

Western Area Power Administration, Colorado River basins power marketing fund (89-4452-0-3-271).

United States Enrichment Corporation.

AN ACT

To provide for financial control of Government corporations.

[59 Stat. 597; 31 USC 9101]

* * * * * * *

§ 9101. Definitions

In this chapter—

* * * * * * *

(3) "wholly owned Government corporation" means—

[(N) United States Enrichment Corporation

APPENDIX I. CALCULATION OF THE UNRECOVERED COSTS OF THE URANIUM ENRICHMENT PROGRAM

The Government's cost of providing uranium enrichment services that has been incurred and not recovered - pursuant to section 161v. of the Atomic Energy Act of 1954, prior to Fiscal Year 1987 is determined to be $364 million. The methodology for arriving at this figure follows.

Column I of the table below sets out the net appropriations to the uranium enrichment program. Net appropriations are defined as the difference between expenditures and revenues, from 1969, when the commercial operation of the enrichment enterprise began, through the end of FY 1986. Expenditures consist of capital investment and operating expenses, including those costs incurred for the Gas Centrifuge Enrichment Plant in Portsmouth, Ohio. Revenues include all funds received from commercial customers from the sale of enriched uranium. This data is based on information from the Department of Energy's annual budget submissions and from the annual financial reports of the enrichment enterprise. Net appropriations at the end of FY 1986 totaled $1.774 billion.

Column II represents revenues that would have been received from the sale of enriched uranium to the Government, if the Government had been paying the commercial price for the enrichment service. This is equal to outlays incurred in providing enrichment services for Government users. From 1969 through 1983, Government revenue is calculated by multiplying the number of separative work units (a measure of enrichment service) provided to the government by the commercial price. During this period, no appropriations were provided to government customers to pay the enrichment program for enrichment services.

From 1983 through 1986, funds were provided in appropriations bills for the separative work units produced for the government, although they were insufficient to cover expenditures. Government customers are not charged for non-cash expenditures, such as interest and depreciation, in their price for enrichment services. For these years, the difference between the amount provided in the appropriations bills and the commercial price is included in column II.

Column III, the sum of Column I and Column II, is equivalent to the net amount of money borrowed from or received by the Treasury in each year. In the years when money was borrowed from the Treasury, the amount in Column

III becomes the principal upon which interest must be calculated.

The interest rates in column IV are the average long-term cost of money to the U.S. Treasury. This is documented in the financial reports of the uranium enrichment program in each year.

Interest is calculated on each amount from Column III, from the year when the money was borrowed or loaned to the end of FY 1986, at the fixed rate in Column IV. Each year is treated as a separate "loan" from the Treasury, at a specific interest rate. Column V is the toal amount owed on the "loan," principal plus interest, for each year. The total amount that has been borrowed from the Treasury since the inception of the commercial enrichment program in 1969, until the end of FY 1986, is the sum of the yearly loans.

The unrecovered costs of the uranium enrichment enterprise under this interpretation are $364 million.

FY	I APP NET	II GOV'T REV	III REV NET	IV INT RATE	V PRIN & INT
1969	-105.7	60.0	-45.7	4.985	-104.5
1970	-89.1	60.0	-29.1	5.785	-71.6
1971	29.1	60.4	89.5	5.665	204.5
1972	-69.7	21.1	-48.6	5.242	-99.4
1973	-76.1	29.9	-46.2	5.600	-93.8
1974	302.9	22.3	325.2	6.782	714.7
1975	-79.9	34.1	-45.8	7.015	-96.6
1976	-300.0	53.0	-247.0	6.644	-470.0
1977	-507.0	116.3	-390.7	6.403	-683.0
1978	-283.8	114.3	-169.5	6.979	-290.8
1979	-91.0	121.5	30.5	8.202	53.0
1980	-204.0	109.8	-94.2	9.685	-164.0
1981	-237.5	177.3	-60.2	11.335	-103.0
1982	56.3	230.0	286.3	12.395	456.9
1983	79.8	98.2	178.0	11.050	243.8
1984	10.6	124.2	134.8	11.052	166.2
1985	-300.1	90.0	-210.1	10.875	-232.9
1986	90.7	115.6	206.3	6.319	206.3
TOTAL	-1774.0	1638.0	-136.5		-364.0

APPENDIX II. CALCULATION OF CHARGES UNDER TITLE I: AN EXAMPLE

The example below is not meant to be indicative of typical reactor loadings, nor is it meant to suggest that Title I requires utilities to load reactors as shown, but is only to be illustrative. For example IF reactors were loaded as shown, THEN Title I would have the indicated effect.

Example: Holding Company I owns Utilities A and B.
Utility A owns and operates Reactor a1.
* Utility B operates Reactors b1 and b2. B owns all of b1 but only 3/4 of Reactor b2.
* Utility C owns 1/4 of Reactor b2 and owns and operates Reactors c1 and c2.
Utility D owns and operates Reactor d1.

* This example assumes that Utilities B and C have mutually agreed, in accordance with Section 114, to aggregate their pro rata shares of new fuel assemblies in Reactor b2 with the pro rata shares of new fuel assemblies loaded in the other reactors owned by Utilities B and C, respectively.

The following data is applicable for a particular year:

Reactor	Loaded uranium (total) (kg)	Loaded foreign uranium grndfthrd [sec 115] (kg)	Loaded foreign uranium non-grndfthrd (kg)	Loaded domestic uranium (kg)	EQUIV. URANIUM (total) [sec 3(9)] (kg)	EQUIV. FOREIGN URANIUM [sec 3(8)] grndfthrd [sec 115] (kg)	EQUIV. FOREIGN URANIUM [sec 3(8)] non-grndfthrd (kg)	Equiv. domestic uranium (kg)
a1	29,900	0	2,000	27,900	124,000	0	12,400	111,600
b1	26,100	0	10,500	15,600	125,000	0	62,500	62,500
b2	25,600	0	12,000	13,600	126,000	0	71,820	54,180
c1	25,400	12,700	0	12,700	127,000	76,200	0	50,800
c2	27,150	6,250	1,500	19,400	125,000	37,500	10,000	77,500
d1	24,700	1,100	12,600	11,000	126,000	6,300	75,600	44,100

To determine whether or not charges will be imposed under section 113, Holding Company I will make the following calculations:

Reactor	Loaded uranium (total) (kg)	Loaded foreign uranium grndfthrd [sec 115] (kg)	Loaded foreign uranium non-grndfthrd (kg)	Loaded domestic uranium (kg)	EQUIV. URANIUM (total) [sec 3(9)] (kg)	EQUIV. FOREIGN URANIUM [sec 3(8)] grndfthrd [sec 115] (kg)	EQUIV. FOREIGN URANIUM [sec 3(8)] non-grndfthrd (kg)	Equiv. domestic uranium (kg)
a1	29,900	0	2,000	27,900	124,000	0	12,400	111,600
b1	26,100	0	10,500	15,600	125,000	0	62,500	62,500
b2 x 3/4	19,200	0	9,000	10,200	94,500	0	53,865	40,635
System total	75,200 (a)	0 (b)	21,500 (c)	53,700 (d)	343,500 (e)	0 (f)	128,765 (g)	214,735 (h)

For the purpose of determining the charges imposed by section 113, the percentage of foreign uranium in new fuel assemblies loaded during a calendar year shall be calculated by dividing the total weight of the Equivalent Foreign Uranium by the total weight of Equivalent Uranium. In this case, [(f) + (g)]/(e) = 37.5 %.
No charges are imposed even though Reactor b1 was loaded with greater than 37.5% foreign uranium, and Reactor b2 was loaded greater than 50.0 % foreign uranium.

To determine whether or not charges will be imposed under section 113, Utility C will make the following calculations:

Reactor	Loaded uranium (total) (kg)	Loaded foreign uranium grndfthrd [sec 115] (kg)	Loaded foreign uranium non-grndfthrd (kg)	Loaded domestic uranium (kg)	EQUIV. URANIUM (total) [sec 3(9)] (kg)	EQUIV. FOREIGN URANIUM [sec 3(8)] grndfthrd [sec 115] (kg)	EQUIV. FOREIGN URANIUM [sec 3(8)] non-grndfthrd (kg)	Equiv. domestic uranium (kg)
b2 x 1/4	6,400	0	3,000	3,400	31,500	0	17,955	13,545
c1	25,400	12,700	0	12,700	127,000	76,200	0	50,800
c2	27,150	6,250	1,500	19,400	125,000	37,500	10,000	77,500
System total	58,950 (a)	18,950 (b)	4,500 (c)	35,500 (d)	283,500 (e)	113,700 (f)	27,955 (g)	141,845 (h)

The percentage of foreign uranium is [(f) + (g)]/(e) = 50.0 %.
The percentage of grandfathered foreign uranium is (f)/(e) = 40.1 %.
The percentage of non-grandfathered foreign uranium is (g)/(e) = 9.9 %.
Charges are imposed on those kgs comprising this 9.9 % as if those kgs are between 40.1 % and 50.0 %. The following schedule describes the penalty payments: NOTE -- The penalty is charged on (a) not on (f) or (g).

1988 - 1994

40.1 - 50.0 %   .099 x 58,950 x $200 $1,167,210
===========

1995 - 2000

No charges are imposed even though Reactor b2 was loaded with greater than 50.0 % foreign uranium.

To determine whether or not charges will be imposed under section 113, Utility D will make the following calculations:

Reactor	Loaded uranium (total)	Loaded foreign uranium grndfthrd [sec 115]	Loaded foreign uranium non-grndfthrd	Loaded domestic uranium	EQUIV. URANIUM (total) [sec 3(9)]	EQUIV. FOREIGN URANIUM [sec 3(8)] grndfthrd [sec 115]	EQUIV. FOREIGN URANIUM [sec 3(8)] non-grndfthrd	Equiv. domestic uranium
	(kg)	(kg)	(kg)	(kg)	(kg)	(kg)	(kg)	(kg)
d1	24,700 (a)	1,100 (b)	12,600 (c)	11,000 (d)	126,000 (e)	6,300 (f)	75,600 (g)	44,100 (h)

The percentage of foreign uranium is [(f) + (g)]/(e) = 65.0 %.
The percentage of grandfathered foreign uranium is (f)/(e) = 5.0 %.
The percentage of non-grandfathered foreign uranium is (g)/(e) = 60.0 %.
Charges are imposed on those kgs comprising this 60.0 % as if those kgs are between 5.0 % and 65.0 %.

The following schedule describes the penalty payments:
NOTE -- The penalty is charged on (a) not on (f) or (g).

1988 - 1994
----

5 - 37.5%	.325 x 24,700 x $0.00	$0
37.5 - 55%	.175 x 24,700 x $200	864,500
55 - 60%	.05 x 24,700 x $250	308,750
60 - 65%	.05 x 24,700 x $350	432,250
		$1,605,500

1995 - 2000
----

5 - 50%	.45 x 24,700 x $0.00	$0
50 - 55%	.05 x 24,700 x $200	247,000
55 - 60%	.05 x 24,700 x $250	308,750
60 - 65%	.05 x 24,700 x $350	432,250
		$988,000

APPENDIX III. MEMORANDUM ON USE OF DOE INVENTORIES

DOE F 1325.8
(4-84)

United States Government **Department of Energy**

memorandum

DATE: February 5, 1985

REPLY TO ATTN OF: NE-32

SUBJECT: ACTION: Use of Department of Energy (DOE) Uranium Inventories

TO: The Secretary

BACKGROUND:

The Department currently has large inventories of uranium available for use--a total equivalent to 73,000 tons of natural uranium (MTU). This includes 53,000 MTU of natural uranium and partially depleted uranium (tails) which, if recycled to 0.20 percent U-235, would effectively provide the additional 20,000 MTU.

The Government invested about $1.6 billion to acquire this inventory. The uranium was purchased primarily to assist the domestic uranium mining industry during the period from 1964, when Government demands ceased, to the early 1970's when the demands for uranium for commercial nuclear power reactors materialized.

In 1972, the Atomic Energy Commission declared this uranium inventory surplus to Government needs. The decision was made at that time to make the inventory available to overfeed the uranium enrichment plants to produce additional enriched uranium at lower cost. For a variety of reasons, only a portion was used to overfeed from 1972 to 1978, leaving the current 53,000 MTU. This inventory could be used to meet future defense needs and/or for overfeeding the enrichment plants to reduce power costs. If used with the depleted tails only to meet future defense needs, the total inventory would be sufficient to meet projected requirements until 2013.

DISCUSSION:

Nuclear Energy (NE) and Defense Programs (DP) are jointly proposing that overfeeding be reinitiated so that the enrichment program can reduce near-term cash outlays for power, thereby keeping the separative work unit price down. This will result in near term savings to all enrichment customers, commercial and defense. However, it may require earlier funding for replenishing uranium to meet defense requirements, potentially as early as 1991, if projected defense needs remain unchanged.

Two options exist for replenishing uranium used in overfeeding--direct purchase and/or recycling tails. Economics to the Government of both options have been examined using conservative assumptions. The analysis concluded that overfeeding, and later recycling the tails, is the economic optimum. Overfeeding and recycling permit the ultimate allocation of 100 percent of the total inventory (natural uranium and tails) to meet defense needs. The overfeeding and recycling process does not alter the total amount of uranium available for defense needs and does not jeopardize our ability to meet defense needs.

The proposal includes the set aside of 50 percent of the existing natural uranium inventory (or 26,500 MTU) to meet defense needs. The remaining 50 percent would be made available for overfeeding, and later recycling, for use in meeting future defense needs. The overfeeding of uranium will save about $700 to $800 million in power outlays over the next 5 years. This savings will be passed on to all enrichment customers, commercial and defense, in the form of lower prices. Current projections are that up to 20 percent of future enrichment requirements will be to meet defense needs. On this basis, the benefits to DP would be about 20 percent, or $150 million, of the power savings.

When recycling is required, as early as 1991 or as late as 1999, depending on actual defense needs, DP will seek the funds required to recycle the tails. The ultimate cost or savings to DP will depend on when recycling occurs and the enrichment technology used to recycle the tails. If advanced technologies are deployed as currently projected, the costs of recycling can be reduced and the associated economic benefits to the Government further improved. If the overfeeding and recycling process were not pursued, then funds would be required to purchase uranium. The costs of purchasing new inventories could be as much as six times greater than the costs of recycling. Therefore, DP expects to minimize its total long-term costs through overfeeding and recycling.

Under this proposed strategy, the Department's uranium inventory would be designated for specific uses over time and therefore the potential sale of uranium by the Government to reduce its inventory would no longer be a consideration. That is, the potential for the Government to be in competition with the mining industry for sales of uranium would be eliminated.

RECOMMENDATION:

Approve the proposed strategy for the management and use of the Department's uranium inventory which includes these key elements:

- Operate the uranium enrichment complex in an overfeeding and tails recycle mode to optimize the overall economics of the operation to the Government.
- Make 50 percent of the natural uranium inventory available for overfeeding in the near-term to meet commercial requirements, with the remaining 50 percent of the natural uranium inventory and the tails being reserved for future defense needs.

James W Vaughan Jr
James W. Vaughan, Jr.
Acting Assistant Secretary
for Nuclear Energy

William W. Hoover
William W. Hoover
Assistant Secretary
for Defense Programs

APPROVED: Donald Paul Hodel

DISAPPROVED: ____________________

DATE: February 6, 1985

APPENDIX IV. LETTER TO SENATOR JOHN B. BUREAUX FROM THE ENVIRONMENTAL PROTECTION AGENCY

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF
AIR AND RADIATION

MAR 2 - 1987

Honorable John D. Breaux
United States Senate
Washington, DC 20510

Dear Senator Breaux:

The National Academy of Sciences (NAS) has issued a report, Scientific Basis for Risk Assessment and Management of Uranium Mill Tailings. I thought you would be interested to know our views on the effects this report may have on Federal regulation of uranium mill tailings. I am also sending an identical letter to Senator Simpson. Let me first summarize the main conclusions of the report, a copy of which is enclosed.

The authors have stated three main themes in their Executive Summary:

o A low level of institutional oversight will be needed to ensure long term control of tailings.

o Risk management strategies must be site-specific.

o Health risks to individuals from radon from tailings piles could be significant for those who live nearby, but are trivial for the average U.S. citizen.

The Summary then states 19 principal recommendations, and the report itself states many more. My staff is still examining the report and hopes to discuss it soon with the Chairman of the NAS Panel that produced it. In the meantime, however, we have formed several impressions, as follows:

o We agree with the three main themes and many of the recommendations.

o We believe the regulatory system established under the Uranium Mill Tailings Radiation Control Act (UMTRCA) operates in accordance with many of the Panel's principal recommendations. For example, UMTRCA provides effective long term Federal oversight of tailings, and the Environmental Protection Agency (EPA) and the Nuclear Regulatory Commission (NRC) have implemented the Act's directive to minimize the need for such oversight. Similarly, EPA's standards, which UMTRCA requires

ANR-460:Lichtman:br:kwa:2-20-87:NE200:475-9620: #2484J to be general, are implemented by NRC with thorough consideration of site-specific physical, chemical, and radiological factors.

o The Panel did not give much attention to scientific issues related to moving tailings piles to new disposal sites. We would have appreciated an analysis of the subject.

o The report describes only an individual's risk from radon emissions and does not at all treat the cumulative health detriment to the entire population.

o On the whole, we believe the report is thoughtful and constructive, though inconclusive in some areas.

We do not believe this report provides a basis for reconsidering our standards for uranium mill tailings nor the Federal implementation scheme. Its recommendations generally suggest ways of improving decision making rather than stating that there have been "fatal flaws." Several recommendations, however, are useful in the context of current EPA rulemaking. We believe the Panel correctly recommended that we give more attention to uncertainties in our analyses, and express the reasons for our decisions more explicitly. Our own Science Advisory Board has made similar comments on other radiation rulemakings. We believe our performance in these areas is now better, though we still are striving to improve.

I hope you find this information useful. As always, I would be pleased to answer any questions you may have.

Sincerely,

(Sgd) J. Craig Potter

J. Craig Potter
Assistant Administrator
for Air and Radiation

Enclosure

bcc: Henry D. May, EPA/Region 6
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